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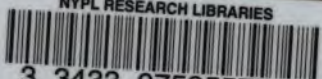
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~~LOUISIANA~~ Statutes

DIGEST

OF THE

PENAL LAW

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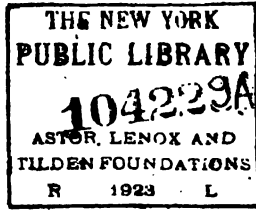
STATE OF LOUISIANA,

ANALYTICALLY ARRANGED.

BY M. M. ROBINSON,
Attorney at Law.

NEW ORLEANS:
PUBLISHED FOR THE AUTHOR.

1841.



Entered according to act of Congress, in the Clerk's office of the District Court
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WILLIAM
BROWN
BROWN

PREFACE.

THE want of some convenient arrangement of the penal laws of the state, has been generally felt. No revision of the laws having ever been made, it has become not a little difficult to ascertain, among the mass of statutes that have accumulated since the organization of the territorial government, what portion still retains the force of law. The embarrassment resulting from this state of things, seems not to have been confined to those engaged in the administration of the law. The recurrence, in different acts, of provisions often identical, and the occasional enactment of special statutes for cases already embraced in some general provision of the law, prove, that even those entrusted with the business of legislation, have not always been aware of the existence of laws to be found in the statute book, and still in full force.

The Digest of the laws published under the authority of the legislature in the year 1828, was prepared without any attempt at a general revision. Nor was any effort made in that compi-

lation, to separate the penal code from the mass of general and private acts, though the attention of the legislature appears to have been turned to the importance of such an arrangement as early as the year 1821, when an act was passed under which the late Mr. LIVINGSTON was employed to prepare a code of criminal law for the consideration of the general assembly. The *projet* reported by that eminent lawyer, did not receive the sanction of the legislature.

An attempt has been made in the present publication to separate the penal law, actually in force, from all other matter. The undertaking has not been without difficulty. It was often no easy matter to determine whether a particular provision could be considered as forming properly a part of such a code. Wherever any offence has been punished by imprisonment or other infamous punishment, and, as a general rule, where any act or omission has been punished by fine or forfeiture, such provisions have been regarded as forming a part of the penal law, and have been included in this Digest. In some instances, however, this principle could not have been rigidly observed, without embracing various provisions of acts confined to particular subjects, often of no public interest, and which neither convenience nor analogy required to be included in a work like the present. Of this class are the laws regulating the militia, the laws providing for the collection of taxes, the laws regulating the police of public roads and levees, the laws imposing fines on officers of incorporated cities for various neglects of duty, the laws establishing particular ferries and bridges, and the laws punishing malicious injuries to the property of different incorporated companies.

The acts punishing offences committed by slaves, are not

embraced in this work. They form an entirely different system of penal law. Such portions of what is termed the Black Code, and of the supplementary acts, as punish offences committed by free persons, have alone been included.

In the preparation of this Digest an endeavor has been made to unite the most convenient form for reference, with the advantages of a strictly analytical arrangement. The nature of the materials have not, in all cases, rendered it practicable to preserve the divisions of the subject with all the strictness which could have been desired; and in some instances it is to be feared, that these divisions themselves, may appear arbitrary or obscure. Whatever difficulty may result from either of these sources, it is hoped, will be entirely obviated by the elaborate Index at the end of the volume.

In the chapter on Courts of Criminal Jurisdiction and subordinate officers, all the provisions of the laws constituting those courts or necessary to the exercise of their criminal jurisdiction, now in force, will be found; as well as the different laws creating or conferring authority on any officer connected with the administration of criminal justice.

The division into articles, numbered consecutively from the commencement, has been adopted from its great convenience. In the references to the original acts, it has been thought best, wherever they could be found in the Digest of 1828, to refer to that publication, as the original editions of the earlier acts are often difficult to be obtained; the laws passed since the compilation of that work, or those of an earlier period not included in it, are cited from the publications made after each session by authority of the legislature.

Wherever any alteration in the language of an original act has been rendered necessary by subsequent changes in the law, or by the plan of this Digest, it has, in all cases, been marked by the use of brackets in the text, or fully explained in the notes. Where any ambiguity in the english text, is explained by the french translation, the latter will be found in the notes.

The decisions, in criminal cases, of the Superior Court of the territory of Orleans, reported in the first and second volumes of Martin, have been added, in the notes to the appropriate articles.

The work is submitted, not without apprehension that it may be found occasionally incorrect. Such errors, however, it is hoped, will not prove either numerous or important enough, seriously to impair its usefulness as an index to the law on the subject of which it treats.

*New-Orleans, 45 Camp Street,
December, 1841.*

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BOOK I.

**OF THE NATURE AND PUNISHMENT OF
OFFENCES.**

CONSTITUTION OF LOUISIANA.

ARTICLE VI.

SECTION 15. All the laws that may be passed by the legislature, and the public records of this state, and the judicial and legislative written proceedings of the same, shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.¹

SECTION 17. No power of suspending the laws of this state shall be exercised, unless by the legislature or its authority.

SECTION 20. No *ex post facto* law shall be passed.

ARTICLE IV.

SECTION 11. The legislature shall never adopt any system or code of laws, by a general reference to the said system or code, but in all cases, shall specify the several provisions of the laws it may enact.

¹ "The constitution requiring that all judicial proceedings shall be in the language in which the laws and constitution of the United States are written, it necessarily follows, that we cannot recognize any validity or force in any judicial proceedings couched in any other language. For *Cur. in W. F. Macarty's case*. 2 Mar. 377.

BOOK THE FIRST.

CHAPTER I.

OF CRIMES AND MISDEMEANORS.

I. Definitions of certain crimes and misdemeanors to be according to the common law.

ARTICLE I.¹ All the crimes, offences and misdemeanors herein before named,² shall be taken, intended and construed,

¹ § 33, Act 4 May, 1805, 1 D. 369.

² The crimes before named are, 1, wilful murder, § 1; 2, rape, § 2; 3, the crime against nature, § 2; 4, arson by maliciously burning any dwelling house, sugar house, rum house, cotton house, cotton-gin house, or store, or out-house or building adjoining such dwelling house, sugar house, cotton house, cotton-gin house, or store, § 3; 5, robbery, § 4; 6, burglary, § 5; 7, the being an accessary, before or after the fact, to any wilful murder, rape, arson, robbery or burglary, § 6 and 7; 8, horse, mule, or slave stealing, § 8; 9, larceny, and the being accessary thereto, § 9; 10, misprision of felony by concealing, or not making known any wilful murder, rape, arson, robbery, burglary or larceny, § 11; 11, receiving or buying stolen goods or chattels knowing them to have been stolen, and receiving, harboring or concealing any felon, knowing him to be such, § 12; 12, wilful and malicious burning any out-house, barn, or stable, not adjoining any dwelling house, sugar house, cotton house, cotton-gin house, or store, or burning any hovel, crib, cock, mow or

according to and in conformity with the common law of England.³

stack of hay, fodder, corn or grain, or the being accessory thereto before the fact, § 13; 13, forging and counterfeiting gold or silver coin, bank notes, writings obligatory, &c., or paying or tendering such forgeries or counterfeits in payment or for sale, § 14 and 15; 14, wilful and corrupt perjury and subornation of perjury, § 16; 15, stealing, taking away, altering, falsifying or otherwise avoiding any record, writ, process, or other proceeding in any court of the territory by means whereof any judgment shall be reversed, made void, or not take effect, or acknowledging or procuring to be acknowledged in any of the said courts any recognizance, bail, or judgment in the name of any person not privy or consenting to the same, § 19; 16, defacing, altering, falsifying, or embezzling any record, enrolment, matter or instrument recorded, or registry thereof, with intent to defraud, § 20; 17, intermarrying with any person, the former husband or wife being alive, § 21; 18, manslaughter, § 22; 19, of malice aforethought, unlawfully cutting or biting off the ear or ears, or cutting out or disabling the tongue, putting out an eye, slitting, cutting or biting off the nose or lip, or cutting off or disabling any limb or member of any person, with intent to maim, disable or disfigure in any manner before mentioned, or counselling, aiding or abetting in so doing, § 23; 20, assaulting, by wilfully shooting at another, or with intent to commit murder, rape or robbery, § 24; 21, challenging or accepting a challenge to fight with sword, pistol, rapier, or other dangerous weapon, or willingly or knowingly carrying or delivering a written challenge, or verbally delivering any message purporting to be a challenge to fight such duel, or being second to either party, or commanding, counselling, or advising, or procuring any person to fight such duel, § 25; 22, by force setting at liberty or rescuing any person indicted or found guilty of any capital crime, or committed for or convicted of any other offence, or rescuing any person convicted of any capital crime going to or during execution, § 26; 23, knowingly or willingly obstructing, resisting, opposing or insulting any officer of the territory in serving or attempting to serve or execute any *meane* process or warrant, or any rule or order of any of the courts of the territory, or any other legal or judicial writ or process whatsoever, or assaulting, beating, wounding or insulting any officer, or other person duly authorized in serving or executing any writ, rule, order, process or warrant aforesaid, § 27; 24, breaking or conspiring to break prison when lawfully confined, § 28; 25, taking a reward under pretence of helping the owner to his stolen goods, § 28; 26, compounding felony, § 28; 27, falsely and maliciously conspiring to indict an innocent man of felony, and who shall be accordingly indicted and acquitted, § 28; 28, directly or indirectly giving, offering, or promising any bribe or other undue reward to obtain or procure the opinion, judgment or decree of any judge, justice of the peace, or other civil or judicial officer of the territory in any suit, controversy, or matter depending before him, and the accepting or receiving the same by any judge, justice of the peace, or other civil

CHAPTER II.

OF ACCESSARIES.

II. *Accessaries before the fact.* III. *Accessaries after the fact.* IV. *Accessaries after the fact in certain burglaries.* V. *Concealing or conveying away slave accused of any crime.*

ART. II.¹ Whoever shall be convicted as accessary before the fact to any crime or offence, shall suffer the same kind and extent of punishment according to the circumstances of the case, as might lawfully be inflicted upon the principal offender for such crime or offence.

ART. III.² Whoever shall be convicted as accessary after or judicial officer, § 29 ; 29, oppression or extortion by any judge, justice of the peace, sheriff, coroner, constable or other civil officer in the administration or under color of his office, § 30 ; 30, making or knowingly assisting at any riot or unlawful assembly, § 31 ; 31, wilfully and maliciously pulling down or destroying any levee or embankment on any of the rivers or navigable waters of the territory, § 31 ; 32, maliciously defaming any one by making, writing, publishing, or causing to be published, any manner of libel, 31 ; 33, assaulting and beating, wounding short of maiming, or falsely imprisoning any one, § 32.

¹ By § 47 of this act (4 May, 1805,) it is provided "that nothing herein before contained shall be construed to extend to any slave or slaves." The part of sect. 33 not inserted in the text will be found in the chapters on the Several modes of Prosecution, art. DVII, and on Trial and Conviction, art. DXIV.

¹ § 8, act of 19 March, 1818, 1 D. 388.

² § 9, *ibid.*

the fact to any crime or offence, shall suffer fine or imprisonment, or both, at the discretion of the court.³

ART. IV.⁴ If any person, after any burglary committed [⁵ by breaking and entering in the night time with intent to kill, rob, steal, commit a rape or to do or perpetrate any other felony, or having with such felonious intent entered by in the night time breaking, any dwelling-house, shop, store, court-house, church, barn, rice, or sugar-house, cotton-gin, office, warehouse, or any out-house appertinent to a dwelling-house, plantation, or any ship or vessel, or by being present aiding assisting or consenting to such burglary, or by being accessory thereto before the fact by counselling, hiring or procuring such burglary to be committed,] shall knowingly harbor, conceal, maintain or assist any principal offender or accessory thereto, before the fact, every such accessory after the fact, who shall be thereof duly convicted, shall be punished⁶ by confinement to hard labor, not exceeding five years.

ART. V.⁷ In case the master, or other person having charge or government of any slave who shall be accused of any capital crime, shall conceal or convey away any such slave so that he cannot be brought to trial and condign pun-

³ See § 12, act of 19 March, 1818, 1 D. 389. Art. DXXXVII, which provides that where "the punishment of fine and imprisonment are left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years." Sections 6 and 7 of the act of 4 May, 1805, and so much of § 12 of the same act as relates to the receiving, harboring or concealing any felon, 1 D. 362-4, and § 2 of the act of 7 June, 1806, 1 D. 377, are virtually repealed by sections 8 and 9 of the act of 19 March, 1818, in the text.

See Art. XIV. note 15, *post*.

⁴ § 6, act of 20 March, 1818, 1 D. 390.

⁵ See § 3, 4, 5, same act.

⁶ So much of this section as inflicted the punishment of solitary imprisonment, was repealed by § 4, act of 12 March, 1838, p. 109, art. DLI, abolishing "solitary confinement in the penitentiary, except in enforcing obedience to the regulations of the police thereof."

⁷ § 4, act of 6 March, 1819, 1 D. 398.

ishment, any master or other person so offending, shall forfeit the sum of two thousand dollars, if such slave be accused of a capital crime as aforesaid, but if such slave shall be accused of a crime not capital, then such master or other person shall forfeit only the sum of one thousand dollars.⁸

⁸ This act virtually repeals the 14th section of the act of 7 June, 1806, 1 D. 117.

CHAPTER III.

OFFENCES AGAINST THE GOVERNMENT.

VI. *Treason against the state.* VII.-IX. *Creating discontent among free negroes, or exciting slaves to insubordination, &c.* X.-XI. *Counterfeiting current gold or silver coin, uttering the same, or possessing with intent to utter.* XII. *Making or knowingly possessing instruments for coining with intent to use the same, or permit them to be used.* *Misprison of felony*—XIII. *by concealing any murder, rape, arson, robbery, burglary or larceny;* XIV. *by neglecting to inform against, or to deliver up slaves guilty of plotting to revolt, or striking master, overseer, &c.* *Misprisions in certain officers*—XV. *in the governor as commander-in-chief of the militia;* XVI. *in officers required to give security;* XVII. *in the treasurer of the state;* XVIII.-XIX. *in members of police juries and parish judges;* XX.-XXII. *in the trustees and others connected with the administration of colleges, academies, parish and other schools;* XXIII.-XXIV. *in the surveyor-general and parish surveyors.* *Offences against the election laws*—XXVI. *non-attendance of commissioner;* XXVII. *unfolding or prying into tickets, or offering more than one;* XXVIII.-XXIX. *bribery;* XXX. *voting in more than one district in the same parish;* XXXI. *intimidating or using threats or violence to influence an election, or threatening or interrupting officers thereof;* XXXII. *disorderly conduct thereat;* XXXIII. *fraud*

or attempt to influence voters on the part of judge, commissioners, or others conducting an election; XXXIV. receiving illegal votes; XXXV. tax collector or deputy giving receipts for taxes to one not on tax list, nor liable to taxation; XXXVI. placing names illegally on tax list by parish assessor; XXXVII. ordering out militia on election days, or day preceding, unless in case of insurrection or invasion; XXXVIII. failure of commissioners, &c. to make election returns as required by law.

ART. VI.¹ Treason against the state, shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. VII.² If any white person shall be duly convicted of being the author, printer or publisher of any written or printed paper or papers within the state, or shall use any language, with the intent to disturb the peace or security of the same, in relation to the slaves of the people of this state, or to diminish that respect which is commanded to free people of color for the whites, by the 40th section of the act entitled "An act, prescribing the rules and conduct to be observed with respect to negroes or other slaves of this territory," approved June 7th, 1806, or to destroy that line of distinction which the law has established between the several classes of this community; such person shall be adjudged guilty of high misdemeanor, and shall be fined in a sum not less than three hundred dollars, nor exceeding one thousand dollars, and moreover imprisoned for a term not less than six months, nor exceeding three years; and if any free person of color shall be convicted of such offence, he, she, or they shall be sentenced to pay a fine not exceeding one thousand dollars, and

¹ Const. of Louisiana, art. 6, sec. 2.

² § 9, act 16 March, 1830, p. 92.

imprisoned at hard labor for a time not less than three years and not exceeding five years, and at the expiration of said imprisonment, be banished from this state for life.³

ART. VIII.⁴ Whosoever shall write, print, publish or distribute, any thing having a tendency to produce discontent among the free colored population of the state, or insubordination among the slaves therein, shall, on conviction thereof, before any court of competent jurisdiction, be sentenced to imprisonment at hard labor for life, or suffer death, at the discretion of the court.

ART. IX.⁵ Whosoever shall make use of language, in any public discourse, from the bar, the bench, the stage, the pulpit, or in any place whatsoever : or whosoever shall make use of language in private discourses or conversations, or shall make use of signs or actions, having a tendency to produce discontent among the free colored population of this state, or to excite insubordination among the slaves therein, or whosoever shall knowingly be instrumental in bringing into this state, any paper, pamphlet, or book having such tendency as aforesaid, shall, on conviction thereof, before any court of competent jurisdiction, suffer imprisonment at hard labor, not less than three years nor more than twenty-one years, or death, at the discretion of the court.⁶

³ See § 17 of this act, book I, ch. 7, note 86. This and the two succeeding articles were approved on the same day (!) the 16th March, 1830. They virtually repeal the 3d sec. of the act of 7 June, 1806, 1 D. 377. The act in the text, Art. VII, it will be observed, applies only to *white* persons. The act which forms the two next articles, is not so limited.

⁴ § 1, act 16 March, 1830, p. 96.

⁵ § 2, *ibid*.

⁶ This act further provides—

Sec. 4. That it shall be the duty of the attorney-general and the several district attorneys of this state, to prosecute to the best of their abilities, each and every violation of this act, whenever it shall come within their own knowledge, or be derived from the information of others, that this act has been violated; and in case the said attorney-general and district attorneys, or either

ART. X.⁷ If any person shall forge or counterfeit, or shall procure to be forged or counterfeited, or shall willingly aid or assist in forging or counterfeiting any gold or silver coin, current within this state by the laws and usages thereof, or if any person, knowing of such forging or counterfeiting, shall willingly aid or assist in passing and rendering current as true, any such forged or counterfeit coin; and for that purpose shall, at any one time, possess any number, not less than five, of similar pieces of false money or coin, forged or counterfeited to the similitude of the gold or silver money, or coin current as aforesaid, with intent to utter the same as true, knowing the same to be false, forged and counterfeit, every person so offending in either of the particulars aforesaid, who shall be duly convicted thereof, shall be⁸ confined at hard labor for a term not exceeding fourteen years.⁹

ART. XI.¹⁰ If any person shall bring into this state, or shall possess within the same, any number of similar pieces of false money, or coin forged or counterfeited as aforesaid, knowing the same to be false, forged and counterfeited, with intent to utter and pass the same as true, or if any person shall utter, tender in payment or pass as true any false money or coin, knowing the same to be false, being counterfeit in the simili-

of them shall refuse or neglect, under any pretence whatever, to prosecute the person or persons so offending against this act, they shall, on due proof thereof, be liable to be removed from office. [The rest of this section, not inserted here, is virtually repealed by the act of 24 March, 1831, p. 78; or has no relation to the sections of the act of 16 March, 1830, Arts. VIII. and IX. in the text. See ch. 7 of this book, note 101, for the part not inserted here, which is still in force.]

Sec. 5. That it shall be the duty of the judges of the [courts of] criminal jurisdiction in this state, to give this act in charge to the grand jury, at each term of their respective courts.

⁷ § 13, act 20 March, 1818, 1 D. 394.

⁸ The punishment of solitary imprisonment, inflicted by this act, was done away with by § 4 of the act of 12 March, 1838, p. 109, Art. DLI. *post*.

⁹ The 14th section of the act of 4 May, 1805, 1 D. 364, is virtually repealed by this section.

¹⁰ § 14, act 20 March, 1818, 1 D. 394.

tude of any gold or silver money, or coin current by law or usage within this state, with intent to defraud any person or persons, every person so offending, who shall be duly convicted, shall be punished by confinement at hard labor not exceeding ten years.¹¹

ART. XII.¹² If any person shall cast, stamp, engrave, form, make or mend, or shall knowingly possess any mould, pattern, die, puncheon, engine, press or other tool or instrument devised, adapted or designed for the coining and making any false and counterfeit money or coin, in the similitude of the gold or silver coin or money current within this state by the laws or usages thereof, with the intent to use and employ the same or cause or permit the same to be used or employed in coining and making any such false and counterfeit money or coin as aforesaid, every person so offending shall be confined at hard labor for a term not exceeding fourteen years.

ART. XIII.¹³ If any person, having knowledge of the actual commission of the crime of wilful murder, rape, arson, robbery, burglary or larceny, shall conceal, and not as soon as may be, disclose and make known the same to some one of the judges, or other persons in civil authority within this [state], on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall pay a fine not exceeding three hundred dollars, and may also at the discretion of the court suffer imprisonment at hard labor, or otherwise, not exceeding twelve months.

ART. XIV.¹⁴ If any master or mistress shall wilfully and intentionally neglect to give information against, or refuse to

¹¹ See note 8, *ante*.

¹² § 15, act 20 March, 1818, 1 D. 395.

¹³ § 11, act 4 May, 1805, 1 D. 363.

¹⁴ § 4, act 22 February, 1814, 1 D. 125.

give up¹⁵ his or her slave or slaves who shall have been guilty of [“revolting, or of a plot to revolt against his or her master or mistress in particular, or of wilfully and maliciously striking his or her master or mistress, or the child or children of his or her master or mistress, or any white overseer appointed by his or her owner to superintend said owner’s slaves, so as to cause a contusion or shedding of blood] said master or mistress shall, upon conviction thereof, forfeit and pay the sum of five hundred dollars, one half of which shall be given to the informer or informers, and the other half to and for the parish in which the offence shall have been committed, and imprisoned until the same is paid.

ART. XV.¹⁷ The commander-in-chief [of the militia] as governor of this state, shall be liable to impeachment for any abuse of the powers or neglect of any of the duties confided to him under the provisions of the act, [of 12 Feb. 1813, for regulating and governing the militia of the state.]¹⁸

ART. XVI.¹⁹ No person employed in the public service, nor any officer of the government of this state, who may by

¹⁵ This section appears to have been intended to punish the *misprision* of neglecting to give information against, or to give up an offending slave, and not the crime of an *accessary after the fact refusing* to give up such an offender; it is consequently placed under the head of misprisions. The correctness of this arrangement will be confirmed by reference to the French text, which reads—“Si quelque maitre ou maitresse, sciemment et intentionnellement néglige de dénoncer ou de délivrer a la justice son esclave coupable, &c;” showing that the intention of the legislature, so far as the French text is evidence of it, was, to inflict the punishment it denounces on those guilty of a simple misprision, and to leave the greater offence of an accessary to other laws. See Art. III, for punishment of accessaries after the fact, which being of a subsequent date to the section in the text, must be considered as having, so far as they conflict, repealed the latter. Thus, whether considered as originally extending to accessaries after the fact, or not, the article in the text now applies only to cases of *misprision*.

¹⁶ § 3, act 22 February, 1814, 1 D. 125.

¹⁷ Part of § 10, act 12 February, 1813, 2 D. 19.

¹⁸ See this and the subsequent acts on the subject of the militia.

¹⁹ Part of § 2, act 26 March, 1813, 2 D. 288.

law be required to give security, shall exercise any of the duties of his trust or office, until the said security shall have been furnished and recorded in the manner [prescribed by the act of 26 March, 1813, providing for the recording of certain acts therein specified,] under penalty not to exceed one thousand dollars, to be recovered before any court of competent jurisdiction, to the use of the state; and shall moreover forfeit the office or trust to which he may have been appointed.²⁰

²⁰ The act of 6 February, 1815, 2 D. 288, provides—

Section 1. That the governor shall deliver no commission to any person bound by law to furnish a security, to be by him approved in consequence of the office to which he shall have been appointed, until the said person shall have given the bond required from him, with good and sufficient security, as also a certificate annexed to the said bond, of the recorder of mortgages, or of the parish judges, as the case may be, stating that the said bond has been recorded agreeably to the first section of the act to which this is a supplement. [of 26 March, 1813, 1 D. 287.]

Section 2. In all cases when public officers other than the governor shall be empowered to approve the bonds, it shall be the duty of the governor to send to them the commissions of all persons bound by law to furnish a security in consequence of the office to which they shall have been appointed, which commissions shall not be delivered until the said persons shall have furnished the bond required from them, with good and sufficient security, as also the certificate stating that the said bonds have been duly recorded. The commission of sheriffs shall be addressed to the judges of their respective parishes, to be delivered to the said sheriffs, after they shall have fulfilled the above conditions. It shall be the duty of the person who shall have received the above bonds, to deposit them, or cause them to be deposited, in the hands of the persons designated by law to that effect.

Section 3. It shall be the duty of the persons empowered to receive in deposit, in their respective offices, the above bonds, to furnish within ten days after the said bonds shall have been delivered, the attorney general or district attorneys, as the case may be, with a list of the names of all such persons as shall have neglected or refused to give the certificate required by the preceding sections.

Section 5. All persons who shall deliver the above commissions before they shall have received the bonds and certificate above mentioned, or who shall neglect or refuse to transmit their list required by the third section of the present act, or who shall not cause to be registered the above bonds, within the delay mentioned in the preceding sections, shall forfeit for each of these offences, and pay the sum of one hundred dollars, for the use of the state, to be recovered before any competent tribunal; and said persons shall besides be re-

ART. XVII.²¹ If the treasurer [of the state] divert or misapply any of the money paid into the treasury for public use, contrary to the direction of any act or acts of assembly, by virtue of which the same was raised or appropriated, the said treasurer, for such offence, shall forfeit his office, and be incapable of holding any office of trust or profit whatsoever in this [state]; and, moreover, shall be liable to pay double the value of any sum or sums so diverted or misapplied, to be recovered, for the public use, by motion of the attorney-general, in any court of record: provided, ten days notice be given, in writing, of such motion, to the treasurer so offending.²²

ART. XVIII.²³ Whenever any member of any police jury, on being duly notified, shall fail to attend at any meeting of said jury, or who having attended, shall absent himself from said meeting, previous to the legal separation thereof, without a reasonable excuse, he shall forfeit and pay to the treasury of the parish the sum of thirty dollars, and the parish judges of the different parishes are hereby authorized and empowered to impose and collect by execution, the said fine in a summary way.²⁴

sponsible towards the state, or any person injured, for all damages that may result from such neglect.

²¹ § 7, act 31 March, 1808, 2 D. 495.

²² The 25th section of the act of 20 February, 1817, 2 D. 431, provides, "that all accountables of public funds of any kind, and all unfaithful depositories, shall be deprived of the benefit of all acts passed for the relief of insolvent debtors, and shall remain imprisoned until they shall have paid the funds confided to their care in the aforesaid capacity."

See § 6, act of 16 January, 1817, 1 D. 87, for provision in case of defalcation of the collector and treasurer of the town of Baton Rouge.

²³ § 2, act 13 March, 1818, 2 D. 247.

²⁴ An act of 30 January, 1834, relating to the police jury of the parish of Jefferson provides p. 19—

Section 12. That any person duly qualified and elected who shall refuse to serve as a member of the said police jury, shall forfeit and pay the sum of fifty dollars, for the benefit of the Orphan Boys' Asylum, established in the parish of Jefferson, unless such person has served during the preceding year, in the said capacity.

An act of the 8 March, 1841, provides p. 103—

Section 2. That the parish judge of the parish of Concordia shall have power

ART. XIX.²⁵ Whenever the parish judge of any parish, shall fail or neglect to perform any of the duties imposed on him relative to police juries, without a reasonable excuse, he shall forfeit and pay for each failure as aforesaid, the sum of one hundred dollars into the treasury of his parish, to be recovered by motion before the district court, by the district attorney, three days notice of which motion shall be given said judge, and it is hereby made the duty of the district attorneys throughout the state, diligently to inquire whether the said parish judges shall have performed their duties, and proceed as the case may require.²⁶

ART. XX.²⁷ If any person appointed an administrator, or elected treasurer of any board of administrators of parish schools, shall refuse to accept said appointment, unless excused by those who have appointed him, or shall neglect to perform the duties imposed on him by [the act of 14th March, 1827,

to summon and convene the members of the police jury of said parish upon the written application of six freeholders of said parish, whenever in his discretion he may consider it necessary. And any member of the police jury who shall fail or neglect to obey said summons, shall forfeit and pay to the parish a fine of twenty dollars for each day he shall fail or neglect to attend said called meeting or any regular meeting, after being properly summoned and notified thereof, which fine shall be ordered and assessed by the members of the said police jury in attendance not less than three, which fines shall be reported to the parish judge by the clerk of the police jury, and it shall be the duty of the said judge to issue execution for the collection of the same, *provided*, that such defaulting member may have said fine remitted upon showing to the satisfaction of the said police jury that his absence was caused by sickness or some other unavoidable cause of detention.

²⁵ § 3, act 13 March, 1818, 2 D. 248.

²⁶ An act of 23 January, 1827, 2 D. 258, determining the qualifications requisite to have the right of voting for members of the police juries of the parishes of St. Mary, St. Martin and Lafayette, provides, section 3, that—

“Any magistrate or other officer, presiding at an election, who will knowingly receive the vote of an individual not entitled to vote, conformably to the first section, shall be liable to be dismissed from office, or to pay a fine of five hundred dollars, at the suit of the prosecuting attorney, for the parish wherein the penalty shall be incurred.”

²⁷ § 10, act 14 March, 1827, 2 D. 358.

providing for the support and administration of parish schools], it shall be the duty of the prosecuting attorney of the district in which the parish in which he resides is situated, to institute against him a suit, before any competent court in said parish, for the recovery of a fine which shall not exceed the sum of fifty dollars, nor be less than twenty-five dollars; and such fines shall be paid into the treasury of the board of administrators of said parish: provided, that in the parishes in the first judicial district, the treasurer of the several boards of administrators be authorized to prosecute for the recovery of said fines.

ART. XXI.²⁸ It shall be the duty of the judges of the several district courts of this state, at least once in every year, to charge their grand juries faithfully to inquire into the application of all moneys drawn from the state by the trustees [of the parish schools], and it shall be the duty of the said trustees to lay before the grand juries of their respective parishes, whenever required so to do, all their accounts, vouchers and proceedings relative thereto, and in case of refusal so to do, or in case of embezzlement, or the appropriation of such money to any other purpose than is contemplated by [law], it shall be the duty of the said grand juries to present the same to the court, showing the matters and persons complained of, upon which the district attorney of said parish shall file an information against the said individual, and proceed on the same to final judgment and recovery of the money embezzled or misappropriated, and all persons who shall be found guilty upon said proceeding, of either embezzling or misappropriating the public money, shall be ever after disqualified from holding or exercising the functions of trustee under this act.²⁹

ART. XXII.³⁰ All visitors, regents, trustees or directors

²⁸ § 8, act 16 February, 1821, 2 D. 352.

²⁹ See note 22, *ante*.

³⁰ § 4, act 1 April, 1833, p. 142.

of colleges or academies, the regents of the central and primary schools in the city of New Orleans, the administrators of parish schools throughout the state, and all other bodies corporate or judicial, or persons, who, by the existing laws are bound to make reports of the state of the several colleges or academies, the central and primary schools, and parish schools generally, to the legislature, shall in future make their reports to the secretary of state, as superintendant of public education, on or before the thirty-first day of December, in each and every year, under the penalty of a fine of not less than fifty dollars, nor more than two hundred dollars, for each and every person so failing, who may be proceeded against by indictment or information, in any court of competent jurisdiction.³¹

ART. XXIII.³² In case the [surveyor-general or parish surveyors] should demand or receive for any of the services mentioned in the provisions of [the act of 18 March, 1818, creating a surveyor-general and parish surveyors], any other fees than those [therein] fixed and established, or if the said surveyors should demand or receive any of the said fees, without having performed the services for which they shall have demanded and received them, and if the said surveyors should demand or receive any other or higher fees than those allowed to them by [the said] act, which shall be proved by the receipt of such surveyor, and under his oath upon the bible,

³¹ The 5th section of this act provides—

That the aforesaid superintendant shall, on or before the first Monday in the month of March, in each and every year, give information to the attorney-general and several district attorneys, of the failure of any or all of the aforesaid officers or persons, who shall reside in their different districts, and who have failed to make the returns and reports required, and it shall be the duty of the said attorney-general and district attorneys, to lay the said information before the grand jury of the parish, at the next court having competent jurisdiction, and prosecute the delinquents in the manner directed by law.—And said attorney-general or district attorneys, shall in each case, they or any of them, shall prosecute to a conviction, be entitled to a fee of twenty-five dollars, to be taxed in the costs and paid by the party convicted.

³² § 12, act 18 March, 1818, 2 D. 444.

the said surveyor shall for every such offence be fined in a sum of fifty dollars in favor of the party aggrieved, besides the restoration of the fees so unjustly demanded and received, to be recovered with costs before any court of competent jurisdiction.

ART. XXIV.³³ If any parish surveyor shall neglect to perform any of the duties prescribed by [the act of 20 March, 1835, for ascertaining and fixing the boundary lines of adjoining parishes], or shall fail to attend at the time and place fixed for commencing the running and marking as [therein prescribed], or shall fail to run and mark [as therein prescribed], he shall, on conviction thereof, suffer a fine not exceeding fifty dollars, and imprisonment not exceeding ten days, at the discretion of the court.

ART. XXV.³⁴ The privilege of free suffrage shall be supported by laws regulating elections and prohibiting under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

ART. XXVI.³⁵ If any person appointed a commissioner of election, shall not attend from the hour of the commencement of an election, and during the continuance of the same, such delinquent shall forfeit and pay a sum not less than ten, nor more than one hundred dollars.³⁶

³³ § 4, act 20 March, 1835, p. 145.

³⁴ Constitution of Louisiana, art. 6, section 4.

³⁵ § 1, act 7 March, 1814, 1 D. 429.

³⁶ By an act of 14 March, 1836, entitled "an act to establish additional election precincts in the parish of St. Martin," it is provided, p. 153—

Section 6. That every commissioner named to preside at an election, as provided for by this act, shall be subject to a fine which shall not exceed one hundred dollars, if he fails to be present, and to preside at said election: and it shall be the duty of the district attorney diligently to prosecute for, and recover said fine before any court of competent jurisdiction, unless prevented by sickness, or by some other inevitable cause from so doing.

ART. XXVII.³⁷ At elections of governor, senator, and representatives, or representatives from this state to the congress of the United States, or either of them, every voter shall deliver his vote on one ticket, which shall contain the names of all the candidates, for whose election he is entitled to vote, and also the names of office, and the same ticket and no other being received by the judges and commissioners, shall be deposited in a box kept for that purpose until the poll be closed ; and if any judge, commissioner, or other person, before the poll be closed, shall unfold, open or pry into any such ticket with design to discover the names of the candidates therein, every person so offending shall forfeit and pay the sum of fifty dollars to the party grieved ; and if any elector shall offer more than one ticket before specified, with a fraudulent design, every such person shall forfeit and pay the sum of twenty-five dollars for every such offence, and shall moreover forfeit his vote at such election ; if on opening any of the tickets given as aforesaid, there be found more names than there ought to be, or if any two or more such tickets be deceitfully folded together, such tickets shall be rejected and not counted among the votes.

ART. XXVIII.³⁸ Any elector who shall receive any gift or reward for his vote, in meat, drink, money given or lent, in indulgence for debt or otherwise, shall forfeit his right to elect

By another act of 14 March, 1836, dividing the parish of Plaquemines into election districts, it is provided, p. 156—

Section 6. That if one of the justices of the peace of said parish appointed and notified by the parish judge to attend at either of the districts of election as commissioner thereof, refuse or fail to do so, he shall pay a fine of twenty-five dollars for the benefit of the parish, which said fine shall be recovered by an order of the parish judge to the sheriff at the expense of the defaulter.

See section 2 of the act of 16 January, 1817, 1 D. 85, imposing a fine on superintendants of certain elections in the town of Baton Rouge, and § 4 of the act of 14 February, 1821, 2 D. 155, imposing a similar fine on superintendants of certain elections in the town of Opelousas, for neglect of duties imposed by those acts.

³⁷ § 3, act 7 March, 1814, 1 D. 430.

³⁸ § 4, *ibid.*

for that time, and shall forfeit and pay a sum not exceeding fifty dollars, and suffer imprisonment not exceeding ten days, at the discretion of the court ; and any person who shall bribe as aforesaid, or who shall promise or attempt either directly or indirectly, to give or bestow any reward as aforesaid, in order to procure any person to be elected, shall, upon conviction thereof, be fined in a sum not exceeding five hundred dollars, and be imprisoned for a term not exceeding two months.

ART. XXIX.³⁹ Every person shall be disqualified from serving as governor, senator or representative for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

ART. XXX.⁴⁰ When a parish shall have been divided into several election districts, it shall be lawful for every voter of said parish to vote in any of said districts at their option : provided, that no voter shall vote in more than one of said districts under penalty of a fine of at least fifty dollars, to be recovered in favor of the state, at the suit of the district attorney.⁴¹

³⁹ Art. 6, § 3, constitution of Louisiana.

⁴⁰ § 6, act 16 March, 1816, 1 D. 437,

⁴¹ The punishment of this offence has been altered, as to particular parishes, by subsequent statutes. An act creating additional election precincts in the parish of St. Landry, of the 14th February, 1834, provides, p. 30—

Section 10. That any qualified voter in said parish may vote at any precinct in the same ; provided he shall, if required by the judges or commissioners of election or any of them, or by a qualified voter, swear, previous to giving his vote, that he has not voted at any other place, during that election, and any person who shall vote twice, during any one election in said parish, shall, on conviction thereof, on indictment or information before any court of competent jurisdiction, be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned not less than ten, nor more than sixty days, and also be subject to all the penalties attached to the crime of perjury, if he shall be convicted of having sworn falsely in relation thereto, when required in the manner aforesaid.

ART. XXXI.⁴² If it may be made to appear to the satisfaction of the proper court, that any election held or to be

An act of 20 March, 1835, creating additional election precincts in the parish of Nachitoches, provides, p. 174—

Section 7. That any duly qualified elector of the said parish may vote in any of the precincts of the above mentioned parish: *provided*, that if it is required of him by the judges, or commissioners, or another duly qualified elector, he swears that he has not voted in any other district, during the pending election; and any person who shall have voted twice at the same election held in said parish, shall, on conviction before a court of competent jurisdiction, be condemned to pay a fine, not less than one hundred dollars, and not to exceed five hundred dollars, and to imprisonment not less than ten nor more than sixty days, and shall moreover be subject to all the penalties attached to the crime of perjury, if convicted of having sworn falsely, when required to make oath, as above enacted.

An act of 1 April, 1835, confined to the parish and city of New Orleans, provides, p. 181—

Section 10. That if any person shall attempt to vote in one precinct after having already voted in another, he shall pay a fine not exceeding one hundred dollars, and if he should actually vote at two precincts, a fine not exceeding five hundred dollars; and in the event of the delinquent being unable to pay the fine aforesaid, he shall, in the first case, be imprisoned for a term not exceeding fifteen days, and in the second case, for a period not exceeding thirty days. Immediately after the election, the judge before whom the last vote shall have been given, or attempted to be given, shall hand over the name of the delinquent to the attorney-general, who shall prosecute him for the recovery of said fine, before the criminal court of the first judicial district, and one half of said fine, if recovered, shall be paid to the informer, if there be one.

Section 11. That any voter shall have the right to require that any other person attempting to vote should be put on his oath, and made to declare whether he has not voted in another precinct. And in case such person should make a false oath, he shall be subject to the penalties provided by the laws of this state, for the crime of perjury.

An act of 7 March, 1836, confined to the parish of Claiborne, provides, p. 101—

Section 7. That any duly qualified elector of said parish may vote in any one of the precincts of the above mentioned parish: *provided*, that if it is required of him by the judges or commissioners, or by any duly qualified elector, he swears that he has not voted in any other district during the pending election; and any person who shall have voted twice at the same election held in said parish, shall, on conviction before any court of competent jurisdiction, be condemned to pay a fine not less than one hundred dollars, and not to exceed five hundred dollars, and to imprisonment during not less than ten or more than sixty days; and shall moreover be subject to all the penalties at-

holden under the laws of this state, any intimidation, threats or violence shall have been used or practised, with design to influence unduly, or to overawe such election, or to restrain the freedom of choice, or if any officer of election shall be threatened, or violence used to his person, or be interrupted in the execution of his duty, every person who shall be guilty of such intimidation, threat, violence or interruption, being convicted thereof, shall be fined in a sum not exceeding one thousand dollars, and be imprisoned not exceeding three months.

ART. XXXII.⁴³ If any person shall be guilty of any disorderly conduct at any election held under the laws of this state, any two of the judges or commissioners of such election are hereby authorized to commit the offender to prison, there to remain for a space not exceeding twenty-four hours, and all sheriffs, constables and jailers, are hereby required to obey the order given in such case.

ART. XXXIII.⁴⁴ If any judge of election, commissioner or other person conducting an election under the laws of this state, shall be duly convicted of any wilful fraud, or of attempting to influence the votes of the electors in any manner whatever, in the discharge of the duties enjoined upon him or required by law, he shall forfeit and pay a sum not less than one hundred dollars, nor more than one thousand dollars, and shall be disqualified from holding any office of honor, trust or profit, in this state for ten years thereafter, and shall moreover be disqualified, for the term aforesaid, to give his vote at any election held within this state.

ART. XXXIV.⁴⁵ If any judge or commissioner of any tached to the crime of perjury, if convicted of having sworn falsely when required to make oath as above enacted.

⁴² § 5, act 7 March, 1814, 1 D. 431.

⁴³ § 9, *ibid*.

⁴⁴ § 6, *ibid*.

⁴⁵ § 2, act 24 February, 1819, 1 D. 439.

election held in this state, shall receive any vote, without having evidence that such person is entitled to the right of suffrage by the constitution or laws of this state, then, and in such case, such judge or commissioner shall be liable to indictment and trial, and, on conviction thereof, shall be subject to a fine not exceeding five hundred dollars, nor less than two hundred dollars, and shall moreover be subject to imprisonment at the discretion of the court.

ART. XXXV.⁴⁶ If any collector of state taxes, or his deputy, shall give to any person a receipt for taxes, whose name is not on the tax list, without evidence that such person has property liable to taxation, by the laws of this state, he shall, on conviction thereof, be fined in a sum not more than five hundred dollars, nor less than two hundred dollars, to be recovered before any court of competent jurisdiction, and shall moreover be dismissed from office, as provided for by the constitution of this state, and shall be incapable ever after of holding any office of profit or trust in this state.

ART. XXXVI.⁴⁷ If any assessor of taxable property in this state shall knowingly place on the tax list of the parish for which he is acting, any person as liable to pay tax to the state who does not possess property, or follow an occupation subject to taxation, the said assessor or sheriff, on conviction thereof, shall be fined in a sum for each offence not more than five hundred dollars, nor less than two hundred dollars, to be recovered before any court of competent jurisdiction on information filed by the attorney-general or district attorney, as the case may be, and shall, moreover, be incapable thereafter of holding any office of trust or profit in the state.

ART. XXXVII.⁴⁸ No officer or other person shall call or

⁴⁶ § 1, act 24 February, 1819, 1 D. 439.

⁴⁷ § 1, act 25 March, 1828, p. 172.

⁴⁸ § 7, act 7 March, 1814, 1 D. 431.

order out any of the militia of this state on any day during an election held by virtue of any law of this state, or within one day previous thereto, except in case of insurrection or invasion, or danger thereof, on pain of forfeiting five hundred dollars for every such offence.

ART. XXXVIII.⁴⁹ All commissioners and others appointed and required to hold elections in this state, who shall fail to make their respective election returns, as is now required by law, shall be fined in a sum not exceeding two thousand nor less than five hundred dollars, to be sued for and recovered before any court of competent jurisdiction, on information, by the district attorneys of the respective districts.⁵⁰

⁴⁹ § 5, act 12 March, 1838, p. 91.

⁵⁰ See the 5th section of the act of 14 February, 1834, p. 28, the 5th section of the act of 20 March, 1835, p. 174, and the 5th section of the act of 7 March, 1836, p. 100, imposing fines on any deputy sheriff delaying or neglecting to deliver to the parish judge or commissioner of election, the process verbal and list of votes given at any precinct election, in the parishes of St. Landry, Natchitoches, and Claiborne, or the ballot box containing such votes.

The penalties of fine and imprisonment imposed by the laws regulating the militia for offences against their provisions, could not have been inserted in this Digest without copying nearly every section of all the acts in force on the subject.

The laws on the subject of taxes impose various penalties for neglects or violations of their different provisions, none of which are inserted in this Digest. See the act of 27 March, 1813, § 9, 14, 17, 21, 23, 26, 27, 33, 35, 2 D. 451-60; of 21 January, 1814, 2 D. 461; of 4 March 1814, § 5, 11, 13, 14, 21, 2 D. 464-72; of 30 January, 1815, § 1, 2, 3, 2 D. 472; of 22 February, 1817, § 21, 2 D. 477; of 20 March, 1818, § 10, 2 D. 480; of 25 April, 1826, § 7, 2 D. 489; of 25 March, 1828, § 3, p. 178; of 7 February, 1829, § 2, 3, 4, pp. 156-8; of 15 March, 1830, § 2, p. 76; of 29 March, 1832, § 1, p. 124, amended by § 1, act of 30 March, 1833, p. 98; of 10 March, 1837, § 3, p. 60, amended by § 3, act of 24 March, 1840, p. 70; of 6 March, 1840, § 9, 10, p. 31.

CHAPTER IV.

OFFENCES AGAINST PUBLIC JUSTICE.

XXXIX. *Stealing or taking away the records or process of any court, by means whereof any judgment shall be reversed or avoided or not take effect, or acknowledging or procuring to be acknowledged in court any recognizance, bail, or judgment in the name of another not privy or consenting to the same.* XL. *Defacing, or embezzling any record with intent to defraud.* XLI. *Stealing, destroying, or falsifying any notarial record, act, or document.* XLII. *Not returning proceedings relating to any succession, or suit, taken from the office of any public notary of New Orleans.* XLIII. *Obstructing, resisting, opposing, insulting, assaulting, or beating officers executing process.* XLIV. *Rescuing persons committed for any capital offence—XLV. or offence not capital.* XLVI. *Releasing, by a master, slave sentenced to service in irons.* XLVII. *Breach of prison or conspiring to break—Taking reward to help owner to stolen goods—Compounding felony—Conspiracy to indict an innocent man.* XLVIII. *Receiving or buying stolen goods knowing them to have been stolen.* XLIX. *Concealing, by any white or free person of color, goods stolen by slaves.* L. *Perjury and subornation of perjury.* LI—II. *Bribery.* LIII. *Attempt to corrupt or awe a jury—receiving reward by juror.* LIV. *Misdemeanor in office of any judge, justice of the peace, sheriff, or other civil officer.* LV. *Refusal or neglect of parish*

judge to keep his office at seat of justice. LVI. Absence of district judge from his district longer than allowed by law. LVII. Failure of judge or notary to cause legal mortgages in favor of minors, interdicted or absent persons, or married women, to be recorded. LVIII. Practising as counsellor or attorney without license. LIX.—LX. Contempt of supreme, district, or parish court by any counsellor or attorney. LXI. Fraudulent practice in court, or betraying interests of client by any counsellor or attorney. LXII.—LXIII. Neglect or refusal by attorney to pay over money recovered. LXIV. Judge of parish court, sheriff, deputy-sheriff, or clerk of any court appearing or pleading in such court, except as attorney in fact for absentee. LXV. Clerk, sheriff, coroner, or other officer charging or receiving higher or other fees than allowed by law. LXVI. Malfeasance or misfeasance in office in clerk of district, parish, or criminal court. LXVII. Acting as sheriff before complying with provisions of law requiring bonds, &c. LXVIII. Failure of sheriff to pay over money collected. LXIX. Neglect or refusal to appear, or give evidence against slaves—or hindering slave from appearing and giving evidence in such cases, when done by a master or other person having charge of such slave. LXX. Failure of relation of minor heir to attend family meeting when legally summoned.

ART. XXXIX.¹ If any person or persons shall feloniously steal or take away any record, writ, process or other proceeding in any of the courts of this [state] by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge, or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judg-

¹ § 19, act 4 May, 1805, 1 D. 366. This section reads in the original act "if any person or persons shall feloniously steal, take away, *alter, falsify, or otherwise avoid* any" &c.; the part not inserted in the text is virtually repealed by § 8 of the subsequent act of 20 March, 1818, 1 D. 391, art. CCLXXXIII.

ment, in the name or names of any other person or persons, not privy or consenting to the same, every such person or persons, on conviction thereof, shall pay a fine not exceeding three thousand dollars, and may also, at the discretion of the court, be punished with imprisonment at hard labor not exceeding two years : provided nevertheless, that this act shall not extend to the acknowledgment of any judgment or judgments, by any attorney or attorneys, duly admitted for any person or persons against whom any such judgment or judgments shall be had or given.

ART. XLI.² Every person who shall deface, or embezzle any record, enrollment, matter or instrument recorded, or registry thereof, with intent to defraud, shall, upon conviction thereof, pay a fine not exceeding one thousand dollars, and be imprisoned at hard labor for a term not more than two years, and shall be rendered incapable of holding any office within this [state].

ART. XLI.³ Whoever shall steal, wilfully destroy, or falsify any notarial record, act, or document, shall be fined not exceeding two thousand dollars, nor less than one thousand dollars, and suffer imprisonment at hard labor or otherwise, not exceeding two years, nor less than one year.

ART. XLII.⁴ In all cases where the proceedings relating

² § 20, act 4 May, 1805, 1 L. 366. This act, as originally passed, reads, "every person who shall deface, *alter, falsify*, or embezzle" &c. So much as is not inserted in the text, is virtually repealed by § 8 of the act of 20 March, 1818, 1 D. 391, art. CCLXXXIII.

³ § 3, act 19 March, 1818, 1 D. 387. The offence of *falsifying* any notarial record, act, or document, is certainly comprehended in the language of § 8 of the subsequent act of the twentieth of March, 1818, 1 D. 391, art. CCLXXXIII, but as this last act was approved only one day after the article in the text, and inflicts a severer punishment, it is doubtful how far it may be construed to repeal the first.

⁴ Act 29 March, 1805, 2 D. 144.

to any succession or suit at law, which may have been or shall hereafter be taken out of the office of any one of the public notaries of [the city of New Orleans], by any person or persons whomsoever, it shall be the duty of [the judge of the district] court, upon the application of the adverse party, or of any person interested therein, to order the same to be deposited with such notary from whom such papers have been taken, within such time thereafter as such judge may deem proper; and if such person or persons shall not comply with the order of said judge within the time prescribed, or show satisfactory cause to him why the same has not been complied with, then, such person or persons shall be deemed guilty of a fraud, and shall be liable to a criminal prosecution therefor, by indictment, and, upon conviction thereof, shall be liable to fine and imprisonment, in the discretion of the court.⁶

ART. XLIII.⁷ If any person or persons shall, knowingly or willingly, obstruct, resist, oppose, or insult any officer of this [state], in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any of the courts of this [state], or any other legal or judicial writ or process whatsoever, or shall assault, beat, wound, or insult any officer, or other person duly authorized, in serving or executing any writ, rule, order, process, or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding six months, and fined not exceeding two hundred dollars.

ART. XLIV.⁸ If any person or persons shall by force set at liberty, or aid to set at liberty, any person or persons com-

⁵ In the original act, "any judge of the superior." See art. CCCXLVIII.

⁶ See § 12, act 19 March, 1818, 1 D. 389, art. DXXXVII, which provides that where "the punishment of fine and imprisonment are left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years."

⁷ § 27, act 4 May, 1805, 1 D. 368.

⁸ § 6, act 7 February, 1829, p. 166.

mitted to prison for any capital crime, every person so offending, and being thereof convicted, shall suffer imprisonment at hard labor, not exceeding seven years.

ART. XLV.⁹ If any person or persons shall, by force, set at liberty or rescue any person committed for, or convicted of any offence [not capital], every person so offending, shall, on conviction thereof, be fined not exceeding three hundred dollars, and be imprisoned at hard labor not exceeding two years.¹⁰

ART. XLVI.¹¹ Whenever a slave shall be sentenced to irons at the service of his master, said slave shall be delivered to his said master after having been put in irons, at the expense of the parish where he shall have been tried; and the said master shall be served with a copy of the said sentence by the sheriff of the said parish, in order that he may comply therewith; and in case said master, after having been thus served with a copy of the said sentence, should take upon himself to release his said slave from irons under any pretence whatsoever and before the time fixed by the said sentence, the said slave shall be forfeited and sold, one half to the benefit of the state, and the other half to the benefit of the informer.

ART. XLVII.¹² Whoever being lawfully imprisoned, shall break or conspire to break prison: whoever shall take any re-

⁹ Part of § 26, act 4 May, 1805, 1 D. 368.

¹⁰ The part of this section, not here inserted, is virtually repealed by § 6 of the act of 7 February, 1829, p. 166, art. XLIV, *ante*. This last act, literally construed, applies only to cases of rescue "of persons committed to prison for any capital crime," while the 26th section of the act of 4 May, 1805, 1 D. 368, extended to those "found guilty of any capital offence, or convicted of any capital crime, going to execution, or during execution;" but there can be no doubt of the intention of the legislature to limit the punishment in all the cases embraced in the act of 1805, to the term of seven years prescribed by the act of 1829.

¹¹ § 7, act 19 March, 1816, 1 D. 128.

¹² § 28, act 4 May, 1805, 1 D. 368.

ward under pretence of helping the owner to his stolen goods : whoever shall compound any felony : whoever shall falsely and maliciously conspire to indict an innocent man of any felony, and who shall be accordingly indicted and acquitted, every such offender shall, upon conviction for any of the aforesaid offences, suffer fine or imprisonment, or both at the discretion of the court.¹³

ART. XLVIII.¹⁴ If any person or persons shall receive or buy any goods or chattels, that shall be feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, he, she or they being of either offence legally convicted, shall restore the goods so received, or pay double the value thereof, and shall moreover suffer imprisonment at hard labor not exceeding one year, and in default of making the restoration or payment aforesaid, shall suffer further imprisonment at hard labor for a period not exceeding one year.¹⁵

ART. XLIX.¹⁶ Every white, or free person of color, who shall conceal any goods stolen by slaves, shall be exposed to public shame, at the discretion of the court, and shall be obliged to make good the injury the sufferer may have sustained, and in case of the inability of the said offender to pay or make good the same, he or she shall be condemned to hard labor for a certain time not exceeding one year.

ART. L.¹⁷ If any person or persons shall wilfully and corruptly commit perjury, or shall by any means procure any person to commit corrupt and wilful perjury, on his or her

¹³ See note 6, *ante*.

¹⁴ § 12, act 4 May, 1805, 1 D. 363.

¹⁵ That part of this section which provided for the punishment of those who "shall receive, harbor, or conceal any felon or felons, thief or thieves, knowing him, her, or them to be so," is virtually repealed by § 9, act 19 March, 1818, 1 D. 388, article III.

¹⁶ § 8, part 2, act 7 June, 1806, 1 D. 115.

¹⁷ § 16, act 4 May, 1805, 1 D. 365.

oath or affirmation in any suit, controversy, matter or cause depending in any of the courts of this [state], or in any deposition or affidavit taken, or made pursuant to the laws of this [state], every person so offending, and being thereof convicted, shall be punished with imprisonment at hard labor not less than five years, nor more than ten years, and [¹⁸if not a white person] shall be set in the pillory two hours on some day in each year of such imprisonment, and be thereafter rendered incapable of giving testimony in any of the courts of this [state], until such time as the judgment against such offender be reversed. ¹

ART. LI.¹⁹ Whoever shall directly or indirectly give, offer, or promise to any judge or other person concerned in the administration of justice, any bribe or undue reward to influence his behavior in his office, shall suffer fine or imprisonment, or both, at the discretion of the court.²⁰

ART. LII.²¹ The judge, justice of the peace, or other civil or judicial officer, who shall in any wise accept or receive any bribe or other undue reward, to obtain or procure [his] opinion, judgment, or decree in any suit, controversy or matter depending before him or them, on conviction thereof shall suffer fine or imprisonment, or both, at the discretion of the court.²²

ART. LIII.²³ All attempts to corrupt or awe a jury in the trial of any cause depending or to be tried in any court of this state, either on indictment or in suit between individuals, by

¹⁸ The punishment by confinement in the pillory was abolished as to white persons only, by the act of 1 March, 1827, 1 D. 404, art. DXLVII, *post*. As to others it is still in force.

¹⁹ § 5, act of 19 March, 1818, 1 D. 388.

²⁰ See note 6, *ante*.

²¹ Part of § 29, act 4 May, 1805, 1 D. 369.

²² See note 6, *ante*. The part of this section, here omitted, is virtually repealed by § 5 of the act of 19 March, 1818, 1 D. 388, art. LI, *supra*.

²³ § 6, act 2, 1817, 1 D. 385.

menaces, threats, giving money, or promises of any pecuniary advantage or otherwise, to any juror or jurors trying said cause, to induce said juror or jurors to give a verdict in favor of either of the parties in the same, is hereby declared a high misdemeanor, and the person or persons so offending shall, on conviction thereof, be fined in a sum not less than one hundred, nor more than five hundred dollars, and imprisoned not less than six months, nor more than two years; and if any juror or jurors take any reward from either of the parties in a cause as aforesaid, he or they shall, on conviction, be punished by fine and imprisonment at the discretion of the court.²⁴

ART. LIV.²⁵ If any judge, justice of the peace, sheriff, or other civil officer, shall be guilty of any misdemeanor in the execution of either of their respective offices, he shall, on conviction thereof, suffer fine or imprisonment, or both, at the discretion of the court, and be rendered forever afterwards incapable of holding any office of trust or profit under the government of this [state], and shall moreover be liable to action by the party injured.²⁷

²⁴ See note 6, *ante*.

²⁵ § 5, act 7 June, 1806, 1 D. 377.

²⁶ The word "superior" omitted; see art. CCCXLVIII. See note 6, *ante*.

²⁷ This act virtually repeals the following provision of an act of the 4 May, 1805, 1 D. 369.

Section 30. If any judge, justice of the peace, sheriff, coroner, constable or other civil officer, be guilty of any oppression or extortion, in the administration or under the color of his office, every such offender shall, on conviction, suffer fine or imprisonment, or both, at the discretion of the court.

See § 34, act 7 June, 1806, 1 D. 109, art. CCCCLXI, imposing a fine on any constable or other person refusing, without lawful cause, to aid any justice of the peace in dispersing runaway slaves or others acting against the public peace, or in searching any place in which arms, ammunition, or stolen goods may be supposed to be concealed, or in apprehending slaves suspected of crimes.

The act of the 20 March, 1827, creating a register of conveyances for New Orleans, provides, 2 D. 304—

Section 11. All notaries, or other persons acting as such, whenever they shall pass any act wherein a married woman or a widow is a party, shall be

ART. LV.²⁸ So soon as the different police juries of the different parishes of the state shall have constructed or provided suitable offices as provided by the first section of [the act of 8 March, 1841, to compel the parish judges to keep their offices at the seats of justice of their respective parishes], each and every parish judge shall deposit and keep the ar-

bound to mention the christian and family names of such woman, adding that she is the wife or widow of (the husband's name).

Section 12. All notaries, or other persons acting as such, shall insert in their acts the christian names of the parties in full, and not with their initial letters alone.

Section 13. All notaries, or other persons acting as such, contravening the provisions of the two foregoing sections, shall be liable to a fine of one hundred dollars, to be recovered before any court of competent jurisdiction, one half for the benefit of the informer, and the other half for the use of the state.

The act of 10 February, 1841, p. 13, creating the offices of sheriff of the district court of the first district, and sheriff of the commercial court of New Orleans, and limiting the duties of the sheriff of the parish of Orleans, provides—

Section 5. That each of the said sheriffs shall forthwith deposit all funds received in his official capacity in one of the incorporated property banks of the city of New Orleans, allowing interest on deposits, and shall keep an account in his official capacity with said bank or banks of all sums thus by him deposited; and they shall be bound to exhibit to the court under whose process or order said funds have been received, on the motion of any party interested, the bank book in which the accounts with said bank or banks are kept: and in case any of said sheriffs shall neglect to deposit the funds by him received as aforesaid, or shall withdraw the same except for the purpose of paying it over to the parties entitled thereto, or refuse to exhibit the bank book in which the accounts of said deposits are kept duly balanced by the proper officers of said banks, such sheriff shall be immediately removed from office by the governor, and another sheriff appointed in his place, as soon as the fact of such neglect, withdrawal, or refusal, shall be certified to the governor under the signature of the judge before whom the proof of said facts has been made.

Section 7. That said sheriffs shall always attend, either in person, or by a regularly constituted deputy, to be approved of by the court, (and removeable by the court for cause), the sessions of the different courts to which they are attached, and they may be punished for any neglect of duty or contempt of court by a fine not exceeding one hundred dollars, and imprisonment not exceeding twenty-four hours, for each and every offence.

²⁸ § 2, act 8 March, 1841, p. 61.

chives of his office therein, under the penalty of one hundred dollars per month, for each and every month he shall refuse or neglect to keep his office at the house so constructed or provided by the police jury of his respective parish; which fine or penalty shall be placed in the parish treasury to the use of said parish.²⁹

ART. LVI.³⁰ Judges of district courts in this state shall not absent themselves from their respective districts, at any one period, for a longer time than twenty-five days, and not more than sixty days in any one year. ³¹Any judge aforesaid, who shall be absent from his district, contrary to this [article], shall forfeit the sum of twenty dollars for each and every day that he shall so be absent, to be deducted out of his salary as it may become due: provided nevertheless, that should the said judge, within thirty days after his return to his district, make it appear, by written proof, to be by him deposited with the judge of the parish in which he has his domicile, that his absence, exceeding the time allowed by [this article], was owing to

²⁹ This act provides—

Section 1. That from and after the passage of this act, the parish judges of the several parishes of the state, shall keep their offices at the seat of justice of their respective parishes, so soon as the police jury of their said parish shall have erected or provided a good and suitable fire proof office for that purpose; and it is hereby made the duty of said police jury to provide such office within twelve months after the passage of this act.

Section 3. That it shall be the duty of the different district attorneys of the different parishes, to inquire and ascertain whether the parish judges of their respective judicial districts have complied with the first and second sections of this act, and if they have not, then to institute and bring suit in the name of the parish in the *via ordinaria*, against such delinquent before the district court in the parish where the delinquent resides, for the amount of forfeiture or penalty any such parish judges may have incurred.

Section 4. That the several district attorneys shall be entitled as a compensation for their services in suing and collecting said forfeitures or penalties, to twenty per cent. on all sums so collected.

³⁰ § 1, act 27 January, 1820, 1 D. 617.

³¹ § 2, *ibid*.

absolute and unavoidable necessity, then and in that case he shall not be subject to the forfeiture aforesaid.³³

ART. LVII.³³ The judges and notaries who shall fail to cause the legal mortgages which exist in favor of minors, interdicted or absent persons, or in favor of married women, to be recorded as provided for by [the act of 10 April, 1824, relative to the recording of certain instruments], shall be liable in damages towards any person who shall suffer thereby, and shall be subject to be removed from office, if the case requires it.

ART. LVIII.³⁴ If any person or persons, without being licensed or qualified as [required by law], shall presume to practise as counsellor or attorney, he shall be condemned to pay a fine of five hundred dollars for every suit in which he shall appear, either for plaintiff or defendant; one half to the use of the informer, and the other half to the use of the [state], recoverable in a summary way, on motion, giving the accused notice of such motion: provided, that nothing [herein] contained shall be construed so as to debar or deprive any citizen from the privilege of appearing personally in any suit in which he may be a party.

³³ This act further provides, p. 617—

Section 3. All evidence that shall be produced, for the purpose of proving the violation of the first section of this act, shall be in writing, and shall have been taken, after giving the district judge ten days notice of the time and place of taking the same, before any judge or justice of the peace of the parish in which he may have his domicile; and it shall be the duty of the parish judge, or justice of the peace before whom such depositions may have been taken, to forward to the treasurer of the state a certified copy thereof, together with depositions, if any, taken by the judge of the district after the notice to the party opposed; and it shall be the duty of the treasurer of the state to deduct from the salary of such judge, at the rate of twenty dollars for each day's absence, contrary to the first section of this act, and the provisions contained in the second section of the same.

Section 4. Nothing herein contained shall be so construed as to apply to any judge while acting as such out of his district, under the laws of the state.

³³ § 6, act 10 April, 1824, 2 D. 291.

³⁴ Part of § 2, act 31 March, 1808, 1 D. 28.

ART. LIX.³⁵ If any counsellor or attorney at law shall be guilty of any contempt towards the supreme court, or any district or parish court of this state, he may be punished therefor by fine not exceeding one hundred dollars, or by imprisonment not exceeding twenty-four hours, or by both, at the discretion of the court: and if the offender be guilty more than once of the like offence towards the same court, he may be punished therefor by fine not exceeding two hundred dollars, nor less than one hundred dollars, or by imprisonment not exceeding ten days, or both, at the discretion of the court.

ART. LX.³⁶ Nothing shall be construed or taken to be a contempt of court by an attorney, but what shall be said, done, or committed directly in the presence or hearing of the court during the sitting of the same, and which shall abuse, vituperate, or insult the judge, or any or either of the judges of the said court, or any other person in or belonging to said court, or resist the authority, or interrupt the proceedings thereof.³⁷

ART. LXI.³⁸ If any counsellor or attorney at law shall commit any fraudulent practice in any court in this state, or shall betray the interests confided to him by any client, [and] be found guilty of the charge made against him,³⁹ the court

³⁵ § 1, act 27 March, 1823, 1 D. 281.

³⁶ § 2, *ibid*.

³⁷ A proviso annexed to this section declares, "that nothing in this section shall be so construed as to alter the law, as it now exists, for the punishment of persons not obeying any summons, writ, or order issuing from any court of record in this state."

³⁸ Part of § 3, act 27 March, 1823, 1 D. 281.

³⁹ Part of this section of the law of 1823, provides the mode of trial of any counsellor or attorney under this act, declaring, that "it shall be lawful for the injured party, or for any two members of the bar, to make a complaint thereof to the district court of the district in which the party accused is domiciliated, if it be in session, or before the judge of said court, if it be not in session; the said complaint must be in writing, stating the facts of the case, and must be supported by the oath of the injured party or his counsel, when he is

may either suspend his license, during a certain period, or vacate and annul it altogether, as they shall judge most fit, according to the circumstances of the case.⁴⁰

ART. LXII.⁴¹ If any attorney admitted to practice at the bar of this state shall recover any sum of money for his client, and shall neglect or refuse to pay over said sum whenever thereto required by his client, without alleging any legal ground for such neglect or refusal, such attorney shall, on conviction of the fact before any court of competent jurisdiction, be immediately erased from the list of attorneys, his license can-

the complainant, or by the oath of at least one of the members of the bar by whom the complaint shall be made; the said complaint shall be filed, and if the said court or judge is satisfied that it is duly made, he shall cause the accused party to be summoned to appear at the court house, there to show cause, in eight days, why an information should not be filed against him. And if no good cause should be shown, an information shall be filed against him accordingly. The said information must contain a clear statement of the facts complained of, with the necessary circumstances of places and dates, in as full and precise a manner as would be requisite in an ordinary criminal information. Whereupon, a jury shall be convened and impaneled for the trial of the said information, the accused having at least ten days notice of the trial; he shall have a right to challenge, peremptorily, five jurors, and such others against whom he can show good cause of challenge. In all other respects, the trial shall be conducted as in ordinary cases of trial for misdemeanor, and a new trial may be granted on the application of the accused, if sufficient cause therefor can be shown."

* The Civil Code, Art. 2262, declares, that "no attorney or counsellor at law shall give evidence of any thing that has been confided to him by his client, without the consent of such client."

The 4th section of the act of 31 March, 1808, 1 D. 29, making it an offence in any attorney to excite or foment suits or quarrels, or to make a bargain with any party to a suit depending on the event of it, for any part of the property in dispute as a compensation for his services, is repealed by the following clause of the act of 27 March, 1823, 1 D. 282.

Section 5. No attorney or counsellor at law shall be otherwise punished for any contempt of court, or suspended from, or deprived of the right to exercise his profession in any other manner, or for any other cause than this act specifies and provides for; and every law, statute, ordinance, or usage, incompatible with the provisions of this act, and the ones herein alluded to, shall be, and the same are hereby repealed and abolished.

⁴¹ § 1, act 22 March, 1826, 1 D. 32.

celled, and forever incapable of appearing as such before any court of this state.

ART. LXIII.⁴² No lawyer shall be entitled to the benefit of the laws relative to insolvent debtors, for any sum by him collected in his capacity aforesaid.

ART. LXIV.⁴³ No judges of any parish shall appear or plead in any parish court for any person whatever, and no sheriff, deputy sheriff, or clerk of any court shall appear or plead for any person or persons, in the court of which he is an officer, except as attorney in fact (as must be made to appear by authentic documents) for any person or persons not residing within this [state] or being absent from the same, under the penalty of being fined by said court in the sum of five hundred dollars for every such offence.⁴⁴

ART. LXV.⁴⁵ Any clerk, sheriff, coroner, or any other officer whatsoever, who shall presume to charge, demand, or receive any greater, higher, or other fees than are especially and particularly mentioned and defined [⁴⁶ by law], shall be liable to pay for every offence a sum not to exceed fifty dollars, nor less than twenty-five dollars, to be recovered before any competent authority, one half to the use of the person suing for the same, and the other half to the use of the parish.⁴⁷

⁴² § 2, act 22 March, 1826, 1 D. 32.

⁴³ Part of § 8, act 31 March, 1808, 1 D. 30.

⁴⁴ This section further provides, that "no judge of any parish court shall be allowed to appear for either plaintiff or defendant in the superior court of this territory [now the district or supreme court], in any case of appeal from a decision had before him;" but no penalty is attached to its violation.

⁴⁵ § 17, act 28 March, 1813, 1 D. 469.

⁴⁶ See the subsequent acts on the subject of fees, 1 D. 470-3.

⁴⁷ The act of 28 March, 1813, 1 D. 469, further provides—

Section 16. Each and every clerk, sheriff, or any other officer in the state whose fees are pointed out by said act, shall be bound at all times, to have posted up in their respective offices, in the most public place, a fair copy of

ART. LXVI.⁴⁸ Whenever any clerk of any district, parish, or criminal court, now existing or hereafter to be created within this state, shall be guilty of any malfeasance or misfeasance in the discharge of the duties of his office,⁴⁹ if, upon hearing all the proofs to be exhibited by the parties, the supremecourt should be of opinion that the said clerk had been guilty of any act which, in the opinion of said court, ought to disqualify him from holding his said office of clerk, then, and in that case, the said court shall proceed to pronounce judgment to that effect, and the said clerk shall be accordingly removed from office.⁵⁰

their fees; and the said clerks and sheriffs shall moreover have said list of fees set up to public view in the court house during the sessions of the court, which copies or lists of fees shall be certified by the district judge to be a true copy, and any officer failing to comply with the provisions of this section, shall for every day so failing be liable to be fined five dollars, to be sued and recovered before any competent authority, one half to the use of the parish, and the other half to the use of the person suing for the same.

⁴⁸ Part of § 1, act 17 February, 1821, 1 D. 218.

⁴⁹ § 3, *ibid*.

⁵⁰ For the mode of proceeding against such clerks, see the act of 17 February, 1821, arts. CCCXVI—XXII.

The act of the 19th February, 1825, 2 D. 293, providing for the recording of judicial proceedings in cases in the parish and district courts, declares, § 5, that "any clerk neglecting or refusing to comply with the provisions of this act, shall be considered as guilty of a breach of good behavior, and, on due proof thereof, be removed from office."

The act of 5 March, 1814, § 2, 1 D. 216, inflicts a penalty on the clerk of any parish or district court failing to keep his office at, or within one mile of the seat of justice of the parish, when provided with a good and sufficient office by the parish. See art. CCCLV.

The act of 16 March, 1826, amending the act organizing the city court of New Orleans, provides, 1 D. 353—

Section 2. The present clerk of the said city court, within ten days after the promulgation of this act, and his successors within ten days after their appointment, shall furnish to the treasurer of the parish of Orleans, a bond with good and sufficient security, in favor of the police jury of the parish of Orleans, in the sum of one thousand dollars, conditioned for the honest and faithful performance of the duties of his office; and if any clerk of the said court fail to furnish the said bond and security within the aforesaid delay herein allowed, it shall be deemed a malfeasance in office, and it shall be the duty of

ART. LXVII.⁵¹ Any person who shall presume to act as sheriff until he shall have complied with the provisions of [the act of 25 March, 1813, regulating the appointment of sheriffs], shall forfeit and pay five hundred dollars, to be recovered on motion before either the district or parish court where such person may reside, for the use of the parish.

ART. LXVIII.⁵² It shall be the duty of the sheriffs to pay over all sums by them seized and collected under a final decision to the person to whom such sums may belong, or to his or her attorney, within three days after the demand shall have been made of them, and in case said sheriff should fail in the payment thereof, said sums may be recovered on motion before any of the district or parish courts : provided, ten days notice thereof shall be given to the sheriff, and the said sheriff shall be condemned to pay, and shall pay to the person whose funds shall have been so withheld, the double of the legal interest thereon, and on information of the case being given to the legislature, the said sheriff shall moreover be removed from office by the governor, on the vote of two thirds of the members of both branches of the legislature.⁵³

the said presiding judge to cite him to appear before the supreme court to answer for the offence, and, upon conviction thereof, he shall be removed from office.

⁵¹ § 9, act 25 March, 1813, 2 D. 377.

⁵² § 10, *ibid.*

⁵³ The act of 10 February, 1841, p. 14, creating the offices of sheriff of the district court of the first district, and sheriff of the commercial court of New Orleans, and limiting the duties of the sheriff of the parish of Orleans, provides—

Section 6. That it shall be the duty of said sheriffs to pay over to the parties entitled to the same, all moneys, bonds, or obligations which they hold in their official capacity, on the first demand made for that purpose by said parties, their attorneys, or agents ; and in case any one of said sheriffs should neglect or refuse to pay over the funds in their hands on said demand, the party aggrieved may proceed against said sheriff, by motion, of which twenty four hours notice shall be given, and if it appear to the satisfaction of the court that the sheriff has neglected or refused to pay over any funds, or deliver any bonds, or obligations in his possession to the party entitled to the same, without any

ART. LXIX.⁵⁴ If any person or persons summoned to appear and bear evidence in suits and actions against slaves,

legal cause or reasonable excuse, the judgment of the court on said case shall be certified to the governor of the state of Louisiana, whose duty it shall be forthwith to remove such sheriff from office, and to appoint another sheriff in his place; and if said appointment should take place during the recess of the legislature, the commission of such sheriff shall expire in the same manner as other appointments by the governor during the recess.

An act of 7 March, 1814, 1 D. 471, amending the act establishing an explicit fee bill, and providing for the collection of clerks', sheriffs', and interpreter's fees, declares—

Section 8. When any sheriff or constable shall fail to pay over the amount of any fees, as provided by this act, it shall be lawful for any person claiming the amount of any such fees, on giving ten days notice to the said sheriff, or constable, on motion before any district or parish judge to recover judgment for such amount as may appear to be due, with costs, and such damages as in the opinion of the judge may be sustained by the complainant.

An act of 28 February, 1814, 2 D. 272, provides—

Section 1. That all sheriffs, jailers, prison keepers, and their and each and every of their deputies within this state, to whom any person or persons shall be sent or committed by the marshal of the district of Louisiana, or his deputies, under the authority of the United States, whether on civil or criminal process, or upon any process or warrant which may be issued by the president of the United States, or those to whom he may delegate authority for any cause whatever, under the laws of the United States, shall be and they are hereby enjoined and required to receive such prisoners into custody, and to keep the same safely, until they shall be discharged by due course of law; and that all such sheriffs, jailers, prison keepers, and their deputies, offending in the premises, shall be liable to the same pains and penalties, and the parties aggrieved shall be entitled to the same remedies against them or any of them, as if such prisoner had been committed to their custody by virtue of legal process issued under the authority of this state.

Section 2. The said sheriffs, jailers, prison keepers, and their deputies, shall furnish to each and every prisoner committed as aforesaid, the following per diem allowance of sound and wholesome provisions, to wit: one pound of beef, or three quarters of a pound of pork, one pound of wheaten bread, one pound of potatoes or one gill of rice, and one gill of whiskey, and at the rate of four quarts of vinegar and two quarts of salt to every one hundred rations, for which he or they shall be entitled to demand and receive quarterly from the marshal of the district aforesaid, at the rate of thirty cents for every ration, and fifty cents per month for every prisoner; and the said marshal or his deputies are to have free access to the jails in which any prisoner may be committed as aforesaid, for the purpose of ascertaining if the rations as above described are faithfully furnished, and in default thereof, the said sheriffs,

shall neglect or refuse to appear, or appearing shall refuse to give evidence, or if any master, or other person having the charge and government of any slave or slaves, shall hinder such slave or slaves from appearing and delivering testimony in any suit depending before the judges and freeholders, [under the act of 7 June, 1806, prescribing the rules of conduct to be observed with respect to negroes and other slaves], the said judges may, and are [hereby] authorized and required to hold every such person so offending, in a certain sum, with one or more good and sufficient sureties, to appear at the next court to answer for this offence and contempt, and in default of not finding such sureties, the offender shall be committed to prison.

jailers, prison keepers, or their deputies, shall be fined in a sum not exceeding two hundred dollars, to be recovered before any court having cognizance thereof.

Section 3. It shall be the duty of the said sheriffs, jailers, prison keepers, and each and every of their deputies, to furnish to each and every prisoner committed under the authority of this state, the same daily ration, and for the same compensation as provided in the preceding section; and the grand jury summoned for the district courts are hereby required to inspect the prisons within their respective districts, at each session of the district courts, and make report to the judges of said courts, of the manner in which such prisoners are treated: and if any of the said sheriffs, jailers, prison keepers, or any of their deputies, should be presented by them for not having complied with the provisions of this act, he or they shall be fined in a sum not exceeding two hundred dollars, to be recovered before any court having cognizance thereof.

An act of 16 March, 1826, amending the act organizing the city court of New Orleans, provides, 1 D. 356—

Section 20. It shall be the duty of the marshal to pay over all sums of money, received either by him or his deputies by virtue of a final judgment, to the person or persons duly entitled to the same, or to his or their attorney or attorneys, within three days from the demand that shall have been made of him; and in case he should neglect to pay the same, the amount shall be recovered from him in the manner provided by the twenty-third section of the act to which the present is supplementary; and upon this fact being made known to the presiding judge of the city court, and upon due proof of the same being made before the said court, it shall be the duty of the said court to remove the marshal from his office and appoint another one in his place.

⁵⁴ Part of § 13, part 2, act 7 June, 1806, 1 D. 117.

ART. LXX.⁵⁵ If any relation of a minor heir or heirs, after having been legally summoned to compose a family meeting of such minor heir or heirs, shall fail to attend according to the summons, he shall be liable to a fine at the discretion of the court issuing the summons, not exceeding twenty dollars, to be applied by the court towards defraying the expenses of convoking and holding such family meeting; which fines shall be collected in the same manner as are collected the fines imposed on witnesses failing to attend after having been regularly summoned.

⁵⁵ § 1, act 10 March, 1834, p. 112.

CHAPTER V.

OFFENCES AGAINST THE PUBLIC PEACE.

LXXI. *Riots, routs, and unlawful assemblies.* **LXXII.** *Disturbing any peaceable assembly of the people.* **LXXIII.** *Destroying levee or embankment of any river or navigable water.* **LXXIV.** *Libels.* **LXXV.** *Carrying concealed weapons.* **LXXVI-LXXVII.** *Challenges to fight, and duelling where no homicide ensues.*

ART. LXXI.¹ Whoever shall make, or knowingly assist at any rout, riot, or unlawful assembly, shall, on conviction thereof, suffer fine or imprisonment, or both, at the discretion of the court.²

ART. LXXII.³ Any person or persons who shall maliciously disturb or cause any disturbance to be made, whereby any peaceable assembling of the people is disturbed, he, she, or they shall be considered as having committed a breach of the peace, and shall, upon conviction thereof, be fined in a sum not exceeding one hundred dollars, and imprisoned for a term not exceeding ten days, at the discretion of the court,

¹ Part of § 31, act 4 May, 1805, 1 D. 369.

² See § 12, act of 19 March, 1818, 1 D. 389, art. DXXXVII, which provides, that where "the punishment of fine and imprisonment is left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years."

³ § 1, act 19 February, 1840, p. 11.

and that for any second conviction the punishment shall be doubled.⁴

ART. LXXIII.⁵ Whoever shall wilfully and maliciously pull down or destroy any levee or embankment on any of the rivers or navigable waters of this [state], shall, on conviction thereof, suffer fine or imprisonment, or both, at the discretion of the court.⁶

ART. LXXIV.⁷ Whoever shall maliciously defame any person by making, writing, publishing, or causing to be published, any manner of libel,⁸ shall, on conviction thereof,

⁴ The second section of this act provides—

That it shall be the duty of any justice of the peace upon affidavit to bind the parties complained of, who shall give sufficient security for their appearance at the next term of the district court, where they shall be prosecuted in the same manner as for other breaches of the peace.

⁵ Part of § 31, act 4 May, 1805, 1 D. 369.

⁶ See note 2, *ante*.

⁷ Part of § 31, act 4 May, 1805, 1 D. 369.

⁸ In the case of the *Territory v. Nugent*, 1 Martin, 103, attachment issued against the defendant for a contempt of court by a libellous publication, and he gave bail to answer interrogatories; the offence being of an aggravated character, the court required security for his good behavior for six months. On a motion to be released from his bond, the court, overruling the motion, said—"I cannot even upon the high authority which is offered (Lord C. J. Camden, in *King v. Wilkes*, 2 *Wilson*, 159), admit that it is absurd to require bail from a libeller. To publish a libel is an indictable offence, and I do not see how the prosecution is to be carried on, if the person of the offender be not at first secured, and how, after arrest, he may be discharged, except upon bail.

"With regard to surety of the peace, if it be not to be required of a libeller, it is because the publication of a libel is said not to be a breach of the peace—and, therefore, requiring that surety would not have the effect of preventing a reiteration of the offence, as such a reiteration would not be a breach of the peace, and consequently, would not occasion the forfeiture of the recognizance. In this sense I understand Lord Chief Justice Camden. The defendant in the case cited, Mr. Wilkes, was a member of parliament, and was charged with the publication of a libel. He contended, and I admit, with propriety, that his situation protected him from arrest in all cases, except treason, felony, and breach of the peace, and the offence with which he stood charged was not treason, felony, nor a breach of the peace: but I am not to conclude that if he

suffer fine or imprisonment, or both, at the discretion of the court.⁹

had not been a member of parliament, surety for his good behavior could not have been required of him.

"All the elementary writers agree that surety for the good behavior may be required of persons charged with the offence sworn to have been committed by the present defendant. One may be bound to his good behavior, for words tending to scandalize the government, or in abuse of the officers of justice, especially in the execution of their office, 4 *Black.* 253,—for speaking words of contempt of an inferior magistrate, as a justice of the peace, and a mayor, though he be not then in the actual execution of his office; and of an inferior officer of justice, as a constable, and such like, being in the execution of his office. 1 *Hawk.* 132.

"In the 18th year of Edward 3d, one John de Northampton acknowledged himself the writer of a letter, deemed by the court to be a libel against John Fenners, one of the king's council, and *committitur marecalle, et postea in venit 6 manucaptors pro bono gestu.* 3 Co. Inst. c. 76, 174.

"The common law has provided a proper method for the punishment of scandalous words [spoken of magistrates] viz. binding to the good behavior: by Holt, C. J. in *Regina v. Rogers*, 2 Ld. Raymond, 778.

"Langley was indicted for speaking these words to the mayor of Salisbury, 'you are a rogue and a rascal,' and by Holt, C. J., the mayor had done well if he had bound the defendant over to his good behavior. Ibid, 1029. 2 Salk. 697.

"A magistrate may bind to good behavior a person who abuses him. 1 Cro. 78.

"The practice of requiring security for the good behavior from libellers prevails in the United States. Chief Justice M'Kean of Pennsylvania demanded it from Cobbett, 1 *Am. Law Journ.* 287. In the case of the *Commonwealth v. Duane*, ibid, 168, Chief Justice Tilghman said: 'I will not say that there are not circumstances in which surety for the good behavior might be exacted in cases of libels, before conviction; on the contrary, I have no doubt, but there are occasions, on which it may be proper and necessary to insist on it.' It is true the Chief Justice declared his opinion, that as a general rule it would be better not to require it. But the defendant has for a long time persisted in the practice, and it is time to put a stop to it. It is better to prevent, than to punish crimes.

"It is also proper to be observed that the case on which the defendant relies, is generally believed not to have been very accurately reported. Ridge-way, in his edition of *Cases tempore Hardwicke*, mentions it among the cases doubted, or denied to be law, and, page 102 *in notis*, informs us that Lord Chief Baron Yelverton, in a case tried before him, *Griffin v. Carleton*, mentioned the principle contended for as depending on a loose saying of Lord Camden in *Wilkes'* case, and stated his apprehension that the report of it is

The Court may be said to have decided in disfavor of the defendant.

ART. LXXV.¹⁰ Any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol, or any

not correct. The editor also mentions the cases of the *King v. Rowan*, and the *King v. Drennan*, as recent instances of a contrary practice in Ireland.

"Where the writing is so clear as to amount of itself to a libel, all foreign circumstances introduced upon the record are unnecessary. *Rex v. Home, Cowper*, 683. The publication being confessed, the court has only to announce whether it amounts to a contempt or not. The intention, giving it the utmost latitude, can be taken only in mitigation. It cannot make the publication less a contempt—a man may not justify his conduct by saying, I have offended, but did not mean to sin. Denying any disrespectful intention is no justification, if the words published be, in the opinion of the court, contemptuous. *The People v. Frier, Cains*, 485."

Same case, on a motion for a new trial. 11 *Martin*, 108. *Per cur.* "In criminal prosecutions in the courts of this territory, the rules of evidence are, by an act of the legislature, declared to be those of the common law of England. 1805, c. 50 § 33.

"The truth of a libel is not admissible evidence: neither is the bad reputation of the person libelled. 2 *M'Nally's Ev.* 649. *Hawk. P. C. ca.* 73. 3 *Bac.* 495.

"It is immaterial with respect to the essence of the libel, whether the matter be true or false, since the provocation, and not the falsity, is the thing to be punished. 4 *Black.* 150. *Wood's Ins.* 424. For in a settled state of government the party grieved ought to complain for every injury done to him, in the ordinary course of law, and not by any means to revenge himself by the odious course of libelling, or otherwise. The case *de libellis famosis*, 5 Co. 125 b.

"A libel, though the contents be true, is not to be justified. Hob. 253. It is punishable though the matter be true. *Moor.* 627. It is a libel, though it be true, for it tends to private quarrels and revenge. 4 *Com.* 150.

"A man may justify in an action for words or a libel, otherwise in an indictment, *per Holt, C. J.* 3 *Salk.* 326. 11 Mo. 99.

"And yet, although the law allows the party to justify in an action for words spoken, it does not for written scandal. 3 *Bac.* 495.

"After so many concurring authorities from the English elementary writers and reporters, it must be concluded that according to the rules of the common law, the court could not have allowed the defendant in this case to have introduced witnesses to prove the truth of the facts charged in the libel. But it is contended that the people of this country have a constitutional right to the liberty of the press, and this principle of the common law, being irreconcilable with this right, is not binding on the court, although recognized by the act of the legislature.

"Constitutional as well as other rights, are to be exercised so that they work no injury to others. *Sic utere tuo ne alios ladas.* Our fellow citizens in the

other deadly weapon concealed in his bosom, coat, or in any other place about him that do not appear in full open view,¹¹ shall, on conviction thereof, before any justice of the peace, be subject to pay a fine not to exceed fifty dollars nor less than twenty dollars, one half to the use of the state, and the balance to the informer; and should any person be convicted of being guilty of a second offence before any court of competent jurisdiction, [such person] shall pay a fine not less than one hundred dollars, to be applied as aforesaid, and be imprisoned for a time not exceeding six months.

Don't know
states of Connecticut, New-York and Virginia, are in as full possession of this right as we. Yet their jurists recognize the common law principle complained of, in its full extent. In 2 *Swift's System*, p. 346, the distinction between the right of giving the truth in evidence in criminal prosecutions, and in actions for defamation is laid down as the law of Connecticut, although the author informs us there has been no *express* recognition of it. The supreme court of the state of New-York admitted the principle in the case of *The People v. Crowell*; and Judge Tucker, in a work avowedly written with a view of pointing out the discrepancies of the laws of Virginia from the common law, although he warns the student of the necessity of considering the reasonableness of the doctrine established in 5 Co. 125, does not hint at any modification of it, peculiar to the American states. 4 *Tucker's Black*. 150.

"In Pennsylvania the principle was abrogated in 1809 by an act of the legislature, *Binney*, 601—in North Carolina in 1802, c. 8, p. 215, and this is negative evidence that it was enforced in those states before those periods.

"If any doubt remained, the absence of any case in which it was overruled in England, or such of the United States, in which no legal provision exists, would be conclusive, especially when it is considered that the French and Spanish laws, which were heretofore in force here, are conformable in this respect to the common law of England.

Mais quelque vraie que soit l' injure lorsqu' elle est faite ailleurs qu' en justice, dans le dessein d' injurier, elle est punissable, quand même elle ferait connaître un crime dont il conviendrait de tirer vengeance pour l' intérêt public. 31 *Repert. Un. et Rais. de Jurisp. Verbo Injure*, p. 318.

Celui qui a écrit on lu un libelle—ne sera pas reçu a demander a faire preuve des faits contenus dans le libelle. *Salviat, Jurisp. Parl. Bord.* 350.

Ca maguer quiera probar aquel que fizo la cantiga, o rima, o dictado malo, que es verdad aquel mal o denuesto que dixo de aquel contra quien lo fizo, non deue ser oydo, nin le deuen cabar la prueba. 7 *Part. tit. 9, ley. 3.*

New trial refused.

⁹ See note 2, *ante*.

¹⁰ § 1, act of 25 March, 1813, 1 D. 378.

ART. LXXVI.¹² If any person shall voluntarily engage in a duel with rapier or small sword, back sword, pistol, or other dangerous weapon, to the hazard of life, when no homicide shall ensue thereon, and if any person shall by word, message, or any other manner, challenge another to fight in a duel as aforesaid, when no duel shall be fought thereon, every such offender, and every person who shall knowingly be a second, agent, or abettor in such duel or challenge, upon due conviction of either of said offences, shall be punished as a felonious assaulter by fine not exceeding two hundred dollars, and imprisonment not exceeding two years.

ART. LXXVII.¹³ If any person shall accept a challenge to a duel, and shall consent to a fight therein as aforesaid, when no duel shall thereupon ensue, every such offender, and every person who shall knowingly be a second, agent, or abettor in such acceptance of a challenge, upon due conviction, shall be punished by a fine not exceeding one hundred dollars, and imprisonment not more than one year.

¹¹ The words "any person so offending," which occur in this place in the original act, are omitted as useless and ungrammatical. The sense of the passage is in no respect affected by the omission.

¹² § 17, act 20 March, 1818, 1 D. 395.

¹³ § 18, *ibid*, 396.

CHAPTER VI.

OFFENCES AGAINST PUBLIC TRADE.

LXXVIII—LXXXI. *Fraudulent bankruptcy.* LXXXII. *Refusal of insolvent to deliver his effects to provisional syndics—*LXXXIII. *or to surrender his property to his creditors when ordered by court.* LXXXIV. *Failure of syndics to make a statement of their business when required by three or more creditors.* LXXXV. *Obtaining money or other property under false pretences, with intent to defraud, or aiding another therein.* LXXXVI. *Procuring money or other property by tutor, curator, or husband, by granting mortgage or privilege on property subject to legal mortgage in favor of minors, absent and interdicted persons, or married women, where the legal mortgage is not recorded, without declaring it subject to the same.* LXXXVII. *Knowingly stamping by any clerk, inspector, or other officer, weights and measures not corresponding with the legal standard.* LXXXVIII. *Buying or selling by, or keeping for such purpose, weights or measures not corresponding with legal standard, or not stamped.* LXXXIX. *Making or using false stamps or scales.* XC. *Selling unstamped measures or weights.* XCI. *Offering tobacco for sale before inspection.* XCII. *Altering or erasing brand or mark of inspectors of tobacco in New Orleans.* XCIII. *Inspector acting as broker or agent for the sale of tobacco.* XCIV. *Illegally affixing brand or mark on tobacco, or extortion in inspector.* XCV. *Offer-*

ing flour for sale before inspection. XCVI. Extortion in inspector of flour in New Orleans. XCVII. Mixing indian meal or other substance with flour. XCVIII. Exporting flour, purchased in New Orleans, without inspection at the time of exportation. XCIX. Altering or erasing any brand or mark, other than the original brand or mark, of inspectors of flour in New Orleans. C. Purchasing flour, other than for his private use, by such inspector. CI. Exporting, or attempting to export from New Orleans, beef or pork not inspected within thirty days preceding, or receiving the same by any captain of a vessel. CII. Offering salted beef or pork for sale in New Orleans before inspection—CIII. or shipping coastwise on account of importer or original owner, without inspection, when such articles shall have remained more than a month in New Orleans, or without exhibiting manifest and copy required by law, or receiving such articles by any master of a vessel. CIV. Taking out or shifting any beef or pork when packed and branded in New Orleans, or putting in other beef or pork, for sale or exportation, or altering or defacing inspector's brand or mark. CV. Buying or selling by inspector or repacker, more beef or pork than necessary for his own consumption. CVI. Neglect, fraud, or misconduct in any such inspector. CVII. Extortion in inspector of flour and pork at St. Francisville. CVIII. Mixing indian meal or other substance with flour offered for inspection there. CIX. Altering or erasing brand or mark of inspector of flour and pork at St. Francisville. CX. Purchasing by such inspector more flour and pork than sufficient for his family use. CXI. Selling spirits in New Orleans before being gauged. CXII. Neglect in gauger to mark any barrel, cask, puncheon, or hogshead as required by law. CXIII. Buying or selling spirits by any gauger, as broker or consignee. CXIV. Selling or disposing of hay in bales in New Orleans, before being branded and marked as required by law. CXV. Neglect of weigher to brand bales as re-

quired by law. CXVI. Falsifying weight, or effacing marks or brands of weigher. CXVII. Weigher being interested in any sale of hay. CXVIII. Selling at auction or vendue by any person not duly appointed auctioneer, nor an officer of any court of the United States, or of this state. CXIX. Selling as deputy to any auctioneer effects subject to duty, unless by a clerk or partner in case of sickness or disability of auctioneer. CXX. Receiving by auctioneer higher or other commission than allowed by law—CXXI. or selling any slave or real estate without producing from register of mortgages certificate showing whether the same be hypothecated, and to what amount. CXXII. Executing or passing by any notary or other person, deed of sale of property sold at auction, before charges of sale are paid. CXXIII—IV. Trading as pedler or hawker without license—CXXV. or without affixing to water craft or vehicle label required by law. CXXVI. Refusal to exhibit license as pedler or hawker, or acting as such in violation of the law of 1820. CXXVII. Acting as shipping master before giving bond required by law. CXXVIII. Master or owner of any ship, steamboat, or other craft while in New Orleans, employing any person who has not given such bond to ship any seaman, cook, or steward. CXXIX. Shipping seaman by master of vessel or agent, in any port of entry in the state, without requiring certificate of discharge, or complying with law of 11 Jan., 1822. CXXX. Knowingly receiving or harboring deserter from merchant vessel, by any tavern, lodging, or boarding-house keeper. CXXXI. Resisting harbor masters of New Orleans in the execution of their office. CXXXII. Piloting by one not a branch pilot, any vessel in or out of the Mississippi, when a branch pilot offers. CXXXIII. Neglect or refusal of pilots at mouths of Mississippi to exhibit branch to commander of vessel, when required. CXXXIV. Neglect or refusal of branch pilot to board vessel when called—CXXXV. or leaving his station contrary to law.

CXXXVI. *Neglect or refusal of pilot to perform any duty imposed by the act of 31 March, 1805.*

ART. LXXVIII.¹ All persons shall be considered as fraudulent bankrupts,² who shall be convicted of having concealed their body or any of their property, with an intention to keep them from their creditors, as also those who being merchants, or shop keepers, shall be convicted of having concealed their commercial books and papers with the same intention, and the same rule shall apply to any insolvent debtor who shall abscond or absent himself from his usual place of residence, without leaving to his creditors any account of his affairs, and without having previously surrendered to them his property, or who shall carry off with him any of his goods or effects, or shall transfer the same to any other place, in order to deprive his creditors thereof.

ART. LXXIX.³ Every insolvent debtor shall also be considered as a fraudulent bankrupt, who shall be convicted of having passed sham deeds for the purpose of conveying the whole or any part of his property, and depriving his creditors thereof, or of having knowingly omitted to declare any of his property, rights, or claims in his schedule, or of having purloined his books, or any of them, (if he be a merchant or shop keeper), or of having altered, changed, or made them anew, always with an intent to defraud his creditors, or of having alienated, mortgaged, or pledged any of his property, or of having committed any other kind of fraud to the prejudice of his creditors.⁴

¹ § 22, act 20 February, 1817, 2 D. 430.

² Fraudulent bankruptcy, though it does not subject the offender to a criminal prosecution in the usual form, is punished with the ignominy and severity of felony, by the laws of this state.

³ § 23, act 20 February, 1817, 2 D. 430.

⁴ The act of 28 March, 1840, p. 133, provides—

Section 10. That if a debtor who has not voluntarily surrendered his property to his creditors, or has not been proceeded against for a surrender under

ART. LXXX.⁵ Any debtor who shall have been found guilty of fraud as aforesaid,⁶ shall for ever be deemed in-

the provisions of this act, shall, in violation of any existing law, have, within the year, given an unjust advantage or preference to any one or more of his creditors, by payment or otherwise, or shall have anticipated the payment, or provided for the payment of a debt not due, the effect whereof shall be to injure the complaining creditor; or shall purchase property for cash, the delivery whereof shall be made to him, and then shall sell or dispose of the same without paying his vendor, or shall remove the same beyond the reach of such vendor, or shall conceal or cover the same in any manner so that his vendor cannot render the same liable, or shall fail to pay over money received or collected for, or deposited with him for another, or shall have made a conveyance, or transfer, or mortgage, or pledge of his property to the prejudice of the complaining creditor; any of such facts shall be held presumptive evidence of fraud, liable, however, like all other presumptions, to be disproved.

⁵ § 21, act 20 February, 1817, 2 D. 430.

⁶ The act of 20th February, 1817, 2 D. 429, provides—

Section 18. In case, after the appointment of said syndics, any of the creditors of the insolvent debtor should deem necessary to oppose it, on the ground of some fraud having been committed by the said insolvent debtor, or of the appointment not having been legally made, he shall, within the ten days next following the appointment of said syndics, lay before the court which has already taken cognizance of the case, his written deposition, stating specially the several facts of nullity of the said appointment, or of fraud by him alleged against the insolvent debtor. Whereupon, in case of accusation of fraud, after having received the said insolvent debtor's answer, the court shall order a jury to be summoned, for the purpose of deciding on the said accusation.

Section 19. Upon such an accusation of fraud, the creditor who shall have brought the same shall have the right to interrogate the insolvent debtor, and to put him such written questions on the state of his affairs, and the several transactions in which he may have been engaged anterior to his failure, as he shall think proper, and the insolvent debtor shall answer in writing to the said interrogatories in a pertinent and distinct manner, and every insufficient answer on his part shall be construed against him.

Section 20. If the jury summoned for the purpose of deciding on the accusation of fraud brought against said insolvent debtor, declare in their verdict that the insolvent debtor has been guilty of fraud, the said insolvent debtor shall for ever be deprived of the benefit of the laws passed in favor of insolvent debtors in this state.

The act of 25 March, 1808, 1 D. 569, "for the relief of insolvent debtors in actual custody" provides, section 6—

"That when fraud is presumed or charged by any one of the creditors, in any

capable of holding any office of trust or profit under the government of this state, and shall, moreover, be liable to be prosecuted and punished as a perjurer, if he should be convicted of having foresworn himself, in any of the declarations which he is bound to make, agreeably to the provisions of [the act of 20 February, 1817, relative to the voluntary surrender of property].

ART. LXXXI.⁷ In case any debtor who shall have surrendered his property under this or any other act, shall be convicted of fraud, he shall be sentenced by the court to suffer imprisonment for a term not exceeding three years.⁸

stage of the proceedings had before the court, the judge shall direct a collateral issue to try the same before a jury; and for that purpose a suggestion shall be filed, in which the facts to be relied on shall be stated, and the debtor shall plead to the same: and should the jury, after hearing all the testimony on the issue before them, under the direction of the court, find the debtor not guilty of fraud, he shall forthwith be discharged from the custody of the sheriff, and from all manner of debts which he may before that time have contracted, on his executing an assignment to trustees appointed for that purpose, and on taking the oath herein prescribed; should the jury, on the contrary, find the debtor guilty of fraud, he shall be remanded to close confinement in the body of the jail, and be forever after deprived of the benefit of this act.

The punishment of imprisonment until the payment of the debts of the insolvent, inflicted by these statutes, is limited to three years by the 7th section of the act of 1840, art. LXXXI, in the text.

⁷ § 7, act 28 March, 1840, p. 133.

⁸ A subsequent section of this act p. 134, provides—

Section 13. That when the causes mentioned in the tenth or eleventh sections of this act shall be tried, if the jury or court, as the case may be, shall be satisfied that the defendant has been guilty of defrauding the complaining creditor, the court shall condemn the defendant to be imprisoned for a period not exceeding three years; and if it shall appear that the defendant has only been guilty of conferring an unjust preference or advantage upon another *bona fide* creditor, whose demand was actually due, such defendant may be relieved from the imprisonment by paying the complaining creditor, or repairing the injury or fraud complained of; and in case the jury or court, as the case may be, shall find the charges against the debtor unfounded, and that the creditor has proceeded without reasonable ground of suspicion, they may impose such damages against the party complaining as may be reasonable and just.

The same act, p. 134, declares—

Section 12. That all cases which shall originate under the provisions of this

ART. LXXXII.⁹ In case the insolvent debtor should refuse to deliver up the goods and effects in his possession, [to the provisional syndics of his estate], the judge may oblige him to that delivery, either by ordering the sheriff to seize the said property, to be by him delivered up to the said syndics, or by causing the insolvent debtor to be imprisoned until the said delivery is effected.

ART. LXXXIII.¹⁰ In case such debtor shall fail or refuse to comply with the judgment of the court, ordering a surrender [of his property¹¹] within the delay fixed, the court shall, on motion, order such debtor to prison, there to remain until he shall have complied with such judgment.

act, shall be tried within the shortest delay, and in preference to all other cases on the docket ; not, however, denying to either party sufficient time to procure witnesses and evidence upon a proper showing ; and either party may require the same to be tried by jury.

⁹ Part of § 12, act 20 February, 1817, 2 D. 428.

¹⁰ § 6, act 28 March, 1840, p. 133.

¹¹ A surrender of his property under the 5th section of the act of 28 March, 1840. This section provides, p. 132—

Section 5. That whenever two or more final judgments, each for a sum exceeding three hundred dollars, shall have been rendered against a debtor, and execution issued thereon, and returned "no property found," and the plaintiffs shall unite in a petition setting forth under oath that they have reason to believe that the defendant has property, rights, or assets of some description within the state of Louisiana which may be made available to his creditors, the court shall order such defendant to show cause, within ten days, why he should not pay the amount of such judgment, or in default of such payment, why he should not make a surrender of his property to his creditors ; and in case said judgments are not satisfied, on, or before the return day of said order to show cause, the court may, if satisfied with the showing, render judgment on said petition, ordering the defendant to file in court, within a reasonable time to be fixed by the court, a schedule of his affairs, and to surrender his property to his creditors ; which schedule shall in all things be made conformably with the laws now in force relative to the voluntary surrender of property, and all the proceedings had in such matter, shall be conducted as provided for by said laws ; provided, that if such judgments shall have been rendered by the city court of New Orleans, the judgment creditors shall address their petition either to the parish, district, or commercial courts.

ART. LXXXIV.¹² It shall be the duty of the said syndics [of the creditors of the insolvent debtor] when required thereto by three or more of the creditors, to lay before them a statement of the business entrusted to their management, in which statement the sums recovered and to be recovered, distributed and to be distributed, shall be specified; and if the said syndics should fail to comply with what is herein prescribed, they shall be liable to a fine of one thousand dollars for the use of the [state], and of six per cent on all sums in arrear, for the benefit of the creditors.

ART. LXXXV.¹³ All persons who knowingly, fraudulently and designedly, by any false pretence or pretences, shall obtain; or aid and assist another in obtaining from any person, money or any property whatever, with intent to defraud any person of the same, shall be deemed offenders against law and the public peace, and shall, on due conviction, be punished by imprisonment, at hard labor or otherwise, not exceeding twelve months.¹⁴

ART. LXXXVI.¹⁵ In case the judges or notaries shall have neglected to cause the [legal] mortgages [which exist in favor of minors, interdicted or absent persons, or married women] to be recorded, it shall be the duty of the tutors or curators of minors, interdicted or absent persons, and of husbands, to cause the said mortgages to be recorded without any delay, and according to law: and if the said tutors, or curators, or husbands, having failed to cause the said mortgages to be recorded, should obtain or procure money or any other pro-

¹² § 3, act 31 March, 1806, 1 D. 574.

¹³ § 2, act 3 July, 1805, 1 D. 374.

¹⁴ The punishment inflicted by this act was, "whipping, not exceeding thirty-nine stripes, or imprisonment at, &c.;" the punishment of whipping free persons was done away with, in all cases, by section 7 of the act of 17 February, 1821, 1 D. 337, art. DXLVIII, *post*. The 6th section of the act of 3 July, 1805, 1 D. 375, provides, that that act shall not extend to any slave.

¹⁵ § 7, act 10 April, 1824, 2 D. 291.

party, on granting any privilege or mortgage on the same, without expressly declaring that it was subject to the legal mortgage of their wives, or other persons above mentioned, whose property they are administering, they shall be considered as guilty of swindling, and punished according to the criminal laws of this state, and shall moreover pay to the party suffering by it, such damages as the nature of the case may require.

ART. LXXXVII.¹⁶ If any clerk, inspector, or any person legally authorized to stamp weights and measures, shall knowingly and wilfully stamp weights and measures which do not correspond with the standard [prescribed by the act of 21 December, 1814, establishing an uniform standard of weights and measures], they shall, on conviction, be condemned to pay a fine of one hundred dollars for each offence, to be recovered on motion by the attorney-general or district attorney, before any court of competent jurisdiction, to the benefit of the parish in which the said offender may reside;¹⁷ and any person thus convicted, shall besides be removed from office; the court, during the prosecution against the said clerks, shall be authorized to appoint a clerk pro tem.¹⁸

¹⁶ § 5, act 21 December, 1814, 2 D. 526.

¹⁷ An act of 22 February, 1820, 2 D. 129, provides—

Section 3. In all cases where the legislature shall have ordered that the fine or fines, incurred on account of a violation of any act on police matters, of a general or particular nature, such as the statute regulating a standard of weights and measures throughout the state, shall be for the use of the parish, either in toto or in part, said fine or fines shall belong to the corporation of New Orleans, in the same manner as has been settled for the parish, in all cases where the offence has been committed in the city of New Orleans and its precincts,

¹⁸ The second section of the act of 21 December, 1814, provides, 2 D. 524, that "the administration and distribution of weights and measures, within the limits of the city of New Orleans, shall be confided to an inspector of weights and measures, to be nominated by the governor, with the advice and consent of the senate, and it shall be the duty of the said inspector to see that no other weights, but those established by this act, be made use of within the limits of the said city, and in case of negligence or breach [of duty] on the

ART. LXXXVIII.¹⁹ One year after the governor shall have deposited such weights, measures, and steelyards with the secretary of state, as required by [the said act establishing an uniform standard of weights and measures], no person shall buy or sell any commodity whatsoever, by weights or measures which do not exactly correspond with the aforesaid standard, or are not stamped, nor shall they keep any such weights or measures for the purpose of buying or selling thereby, under penalty of a fine of fifty dollars for each offence, besides the forfeiture of the weights, measures, and steelyards found to be false, and of a fine of ten dollars when the measures, weights, and steelyards shall be found just though not stamped, said fines to be recovered before any tribunal of competent jurisdiction, one half to the benefit of the informer, and the other half to the parish in which the said offender may reside; all weights and measures seized, shall be forfeited for the benefit of the stamper, who shall have discovered the fraud, and he shall not return them into circulation until he has made them conformable to the standard.²⁰

ART. LXXXIX.²¹ Whoever shall make, or cause to be

part of the said inspector, he shall be condemned to pay a fine not exceeding two hundred dollars nor less than one hundred."

¹⁹ § 6, act 21 December, 1814, 2 D. 526.

²⁰ An act of 28th February, 1824, 2 D. 527, supplementary to the act in the text, provides—

"That no person shall buy or sell any commodity whatsoever by weights or measures which do not exactly correspond with the standard established by the act to which this is a supplement, or are not stamped, agreeably to said act, nor keep any such weights or measures, under penalty of a fine of fifty dollars for each offence, besides the forfeitures of the weights, measures, and steelyards, when the same shall be found to be false, and of a fine of ten dollars, when the measures, weights and steelyards shall be found just, but not stamped, said fines to be recovered before any court of competent jurisdiction, for the benefit of the informer; all weights and measures seized, shall be forfeited for the benefit of the stamper who shall have discovered the fraud, and he shall not return them into circulation, until he has made them conformable to the standard: provided, however, this act shall only take effect in the parish of Orleans."

²¹ § 7, act 21 December, 1814, 2 D. 526.

made use of, utter²² false stamps or scales, shall, on conviction before the district court where this offence is committed, be subject to all the pains and penalties of forgery under the law of this state.

ART. XC.²³ It is forbidden to any person to sell or cause to be sold measures and weights, unless they have been tried and stamped by persons appointed for that purpose, agreeably to the act [abovementioned establishing an uniform standard of weights and measures], under the penalties imposed by article LXXXVIII, against all persons who shall have used false weights.²⁴

ART. XCI.²⁵ No owner, nor owners, nor agent or agents of owners of tobacco, shall offer the same for sale until it shall have been inspected in the manner directed [by the act of 20 March, 1816, regulating the inspection of tobacco], under penalty of fifty dollars for every such offence.²⁶

ART. XCII.²⁷ If any person or persons shall alter or erase

²² This section is printed *verbatim* from the original act. This section is translated in the French text—"Tous ceux qui fabriqueront, feront fabriquer, ou mettront en usage de faux poinçons ou sceaux," &c., which probably expresses the true meaning of the legislature.

²³ § 8, act 21 December, 1814, 2 D. 526.

²⁴ A subsequent section of this act provides, 2 D. 527—

Section 9. The persons to be appointed agreeably to the present act, to try and stamp the weights, measures, &c. shall not commit their functions to a substitute, without being liable to all fines prescribed by this act.

²⁵ Part of § 1, act 20 March, 1816, 1 D. 583.

²⁶ The beginning of this section reads—"That there shall be appointed from time to time three inspectors of tobacco for the city of New Orleans," showing that the act was intended to be confined to the city. The 8th section of this act declares, that all penalties and forfeitures imposed by it, shall be "recoverable before any competent court, one half to the use of the person prosecuting for the same, and the other half to be paid into the treasury of this state."

²⁷ § 5, act 20 March, 1816, 1 D. 584.

any brand or mark of [the] inspectors [of tobacco for the city of New Orleans], every person so offending shall forfeit and pay the sum of twenty-five dollars, for every cask or hogshead the brand or mark of which shall have been so altered or erased.²⁸

ART. XCIII.²⁹ No inspector [of tobacco for the city of New Orleans] appointed in pursuance of [the said act regulating the inspection of tobacco], shall sell, nor act in the sale of tobacco, as broker, agent, or factor for any other person, under the penalty of four hundred dollars, for every such offence.³⁰

ART. XCIV.³¹ It shall be the duty of each and every inspector of tobacco, when a hogshead or cask of tobacco is opened for inspection, to examine the same carefully in at least three different places before pronouncing on the quality of the same; and in no case, shall the brand or mark be affixed, until at least two inspectors, one of whom shall always be taken among the last appointed, have agreed on the quality of the tobacco, which quality shall be mentioned in a certificate signed and delivered by the said inspectors, and for each and every hogshead or cask thus examined, the inspectors inspecting the same, shall be authorized to demand and receive sixty cents and no more.³² Each and every offence against the provisions of this [article], shall be punished before any court of competent jurisdiction, by fine not less than fifty dollars nor exceeding one hundred dollars, one half to the use of the state, and the other half to the use of the informer; and in case any of said inspectors of tobacco should make himself guilty at three different times, of any offence against

²⁸ See note 26, *ante*.

²⁹ Part of § 6, act 20 March, 1816, 1 D. 584.

³⁰ See note 26, *ante*.

³¹ § 1, act 6 March, 1819, 1 D. 585.

³² § 2, *ibid*. 586.

the provisions of this [article], it shall be the duty of the governor to deprive such inspector of his commission.³³

ART. XCV.³⁴ No owner, or owners, or agents of flour,³⁵ shall offer the same for sale, until [it] shall have been inspected in the manner directed [by the act of 3d May, 1805, regulating the inspection of flour], under the penalty of fifty dollars for every such offence, to be recovered in any court having cognizance thereof, one half to the use of the person prosecuting for the same, and the other half to be paid into the treasury of this [state].³⁶

ART. XCVI.³⁷ The owner, or owners, or agents of flour,³⁸ brought into the city of New Orleans, and intended for sale therein, are hereby required to give notice to the said inspector or inspectors, that the same may be inspected; and for every such inspection, he or they shall be entitled to receive [five]³⁹ cents for every barrel of flour, and the said inspector or inspectors, shall not be entitled to receive any more than at the rates aforesaid, under the penalty of fifty dollars for every such offence, to be recovered in any court having cognizance thereof, one half to the use of the person prosecuting for the

³³ This act was passed to amend the act of 20 March, 1816, and like it is confined to the city of New Orleans. The act of 6 March, 1819, virtually repeals the 3d section of the act of 20 March, 1816, 1 D. 583, except so much of it as relates to the duties of the owners of tobacco brought to New Orleans, or their agents.

³⁴ Part of § 1, act 3 May, 1805, 1 D. 576.

³⁵ This act originally extended to the inspection of beef and pork, but so far as it related to these articles was repealed by the act of 18 March, 1820, § 1, 1 D. 578.

³⁶ The commencement of this section reads—"That the governor shall appoint from time to time, one or more inspectors of flour, for the city of New Orleans," and confines the application of the part inserted in the text to the city of New Orleans.

³⁷ § 3, act 3 May, 1805, 1 D. 576.

³⁸ See note 35 supra.

³⁹ Raised from four to five cents by § 1, act 24 March, 1828, p. 122.

same, and the other half to be paid into the treasury of this [state].

ART. XCVII.⁴⁰ For the inspection of flour, the said inspector or inspectors shall be provided with an half inch barrel auger, with which each barrel of flour shall be bored into, so as to satisfy himself or themselves of the quality of the flour, and if any flour shall be found, on examination, to contain a mixture of Indian meal, or any other mixture, such person offering the same shall forfeit and pay the sum of four dollars for every such barrel so mixed, and the flour shall be liable for the payment thereof.⁴¹

ART. XCVIII.⁴² All flour,⁴³ purchased in the city of New Orleans, and intended for exportation, shall be inspected as aforesaid ; and if any purchaser of said article for exportation shall not have the same inspected as aforesaid at the time and place of such exportation, such purchaser or exporter shall forfeit and pay for every barrel of flour, four dollars, although the said flour may have been inspected and branded at any time previous to such purchase.⁴⁴

ART. XCIX.⁴⁵ If any person or persons shall alter or erase any brand or mark of said inspector or inspectors [of flour in New Orleans], other than the original brand or mark made by said inspector or inspectors, every person so offending shall forfeit and pay the sum of fifty dollars, for every such offence,

⁴⁰ § 5, act 3 May, 1805, 1 D. 577.

⁴¹ The 9th section of this act, 1 D. 578, provides, that "all fines, penalties, or forfeitures not herein otherwise directed to be collected, shall be recoverable before any justice of the peace, or in any court having cognizance thereof, one half to the prosecutor, and the other half to be paid to the treasurer of the city of New Orleans, for the use of the hospital thereof."

⁴² § 6, act 3 May, 1805, 1 D. 577.

⁴³ See note 35, *ante*.

⁴⁴ See note 41, *supra*.

⁴⁵ § 8, act 3 May, 1805, 1 D. 578.

to be recovered in any court having cognizance thereof, one half to the use of the person prosecuting for the same, and the other half to be paid into the treasury of this [state].

ART. C.⁴⁶ No inspector, or inspectors of flour, shall purchase any flour, other than for his private use, under the penalty of four hundred dollars.⁴⁷

ART. CI.⁴⁸ No person shall export, or ship, or attempt to export or ship, any beef or pork, without having caused the same to be inspected and branded within the thirty days preceding such exportation or shipment, agreeably to the true spirit of [the act of 19 March, 1820, relative to the inspection of beef and pork], and without procuring from at least one of the inspectors, a certificate that said beef or pork has been inspected and branded according to law; [and]⁴⁹ any captain who shall receive on board of his vessel, or any person who shall ship beef or pork for exportation, contrary to the provisions of [the said] act, shall pay a fine of fifteen dollars for each barrel thus exported or shipped.⁵⁰

ART. CII.⁵¹ All salted beef and salted pork, which shall hereafter be brought to New Orleans, in casks, barrels, or half barrels, and intended for sale therein, shall be subject to inspection; and if any salted beef or salted pork shall hereafter

⁴⁶ Part of § 4, act 3 May, 1805, 1 D. 577.

⁴⁷ See note 41, *ante*.

⁴⁸ § 9, act 18 March, 1820, 1 D. 581.

⁴⁹ § 10, *ibid*.

⁵⁰ This act applies only to the city of New Orleans. The 4th section of the act of 16 March, 1830, p. 148, provides—

“That all the proceeds of property forfeited, and the penalties incurred by a breach of this act, or any other act on the subject of the inspection of beef and pork, shall be recoverable before any court having cognizance thereof, one half of which shall be for the benefit of the asylum for orphan boys in the city of New Orleans, and the other half for the benefit of the person or persons prosecuting for the same in the name of the state.”

⁵¹ § 2, act 16 March, 1830, p. 146.

be sold or offered for sale without inspection, it may and shall be lawful for any of the inspectors, or any other person, or persons, to make seizure thereof forthwith, and to file information thereupon in any court of competent jurisdiction, in the name of the state, and if, upon trial, a breach of [the act of 16 March, 1830, relative to the inspection of beef and pork] be proved, the beef or pork so seized, shall be liable to forfeiture, and condemned to be sold by order of such court.⁵²

ART. CIII.⁵³ All salted beef or salted pork, put up in casks, barrels, half barrels or otherwise, and brought to New Orleans to be shipped coastwise, on account of the importer or original owner, to some other port in the United States, to which on its arrival at New Orleans it should have been destined, shall be exempt from liability to inspection, provided that within forty-eight hours after the arrival of said salted provisions, a manifest thereof, with the affidavits of the owner or master of the boat, or consignee, if there be one, specifying the kind, quality, and destination of such beef and pork, be exhibited at the custom house, and a copy thereof, satisfactorily certified by the collector, be left with one of the inspectors of beef and pork, within the said forty-eight hours after its arrival; and provided, that the said salted provisions do not remain in New Orleans more than one month, without being shipped to its port of destination; and in case of neglect to exhibit such manifest and copy as aforesaid, or the said salted provisions remain in New Orleans longer than one month, the same shall not be shipped without being inspected; and any person or persons who shall ship, or attempt to ship, such salted beef or pork without being inspected, such shipper, and the master of the vessel receiving on board such uninspected salted provisions, shall, on conviction thereof, before any court of competent authority, respectively forfeit and pay a fine of one hundred dollars, and shall moreover be liable to

⁵² See note 50, *ante*.

⁵³ § 3, act 16 March, 1830, p. 148.

pay the inspection fees in the same manner as if the said salted provisions had been actually inspected; and it shall be lawful for any judge of the city court, upon information given by any person, of salted beef or pork being sold, attempted to be sold, or put on board of any vessel contrary to the provisions of the inspection laws of this state, to issue a warrant in the name of the state, directed to the sheriff, or constable, or marshal, as the case may be, requiring him to make seizure of such salted beef or pork, and hold the same, until the cause be decided; and said officers are hereby respectively required and empowered to execute the same.⁵⁴

ART. CIV.⁵⁵ If any person shall intermix, take out, or shift any beef or pork, packed and branded as directed by [the act of 18 March, 1820, relative to the inspection of beef and pork], or put in any other beef or pork for sale or exportation, or alter, change, or deface any brand or mark of any inspector, contrary to the true intent and meaning of [the said] act, said person shall, for every offence, pay a fine of forty dollars,⁵⁶ and moreover shall be liable for damages to any person aggrieved.⁵⁷

ART. CV.⁵⁸ No inspector and re-packer of beef or pork, shall buy or sell more than what shall be necessary for his own consumption.⁵⁹

ART. CVI.⁶⁰ If any inspector shall be guilty of neglect or fraud, or do any thing contrary to the true intent and meaning of [the] act [of 18 March, 1820, relative to the inspection of

⁵⁴ See note 50, *ante*.

⁵⁵ § 8, act 18 March, 1820, 1 D. 581.

⁵⁶ By this act, as it originally passed, the fine was appropriated "one half to the use of the state, and the other half to the use of the informer." This disposition was altered by the act of 1830, see note 50, *ante*.

⁵⁷ This act relates to the inspection of beef and pork in New Orleans.

⁵⁸ § 11, act 18 March, 1820, 1 D. 581.

⁵⁹ See note 57, *supra*.

⁶⁰ § 7, act 18 March, 1820, 1 D. 580.

beef and pork], he or they shall be liable to a fine of fifty dollars, to be recovered before any court of competent authority,⁶¹ and moreover shall be liable for damages to any person aggrieved.

ART. CVII.⁶² [The inspector of flour and pork for the town of St. Francisville shall] for every inspection, be entitled to demand and receive six and a quarter cents for every barrel of flour, and eight and three quarter cents for every barrel of pork ; and the said inspector shall not demand or receive any higher fees than those herein allowed, under the penalty of fifty dollars for every such offence.⁶³

ART. CVIII.⁶⁴ The said inspector shall provide himself with a half inch barrel auger, with which each barrel of flour shall be bored into, so as to satisfy himself of the quality of the flour ; and if any flour shall, on examination, be found to contain a mixture of indian meal, or any other mixture, the person offering the same shall forfeit and pay the sum of four dollars, for every such barrel so mixed, and the flour shall be liable for the payment thereof.⁶⁵

⁶¹ This act provided, that the fine should be given "one half to the use of the state, and the other half to the use and benefit of the informer." This has been since altered, see note 50, *ante*.

⁶² Part of § 3, act 28 February, 1828, p. 44.

⁶³ The concluding section of this act provides—

Section 10. That all fines, penalties, and forfeitures herein imposed, shall be recoverable before any court having cognizance thereof, one half to the use of the person prosecuting for the same, and the other half to be paid to the treasurer of the town of St. Francisville, for the use of said town.

The 9th section allows the inspector to appoint a deputy, but makes him responsible for the acts of the latter.

By an act of 16 March, 1830, p. 148, it is provided—

Section 6. That it shall be at the option of the buyer and seller to have the articles of flour and pork inspected, or to buy and sell without such inspection, as either party may please, any thing in the act entitled, "an act providing for the inspection of flour and pork in the town of St. Francisville, and for other purposes," to the contrary notwithstanding.

This clause virtually repeals the second section of the act of 28 February, 1828, p. 44.

⁶⁴ § 5, act 28 February, 1828, p. 44.

⁶⁵ See note 63, *supra*.

ART. CIX.⁶⁶ If any person or persons shall alter or erase any brand or mark of said inspector, every person so offending shall forfeit and pay the sum of fifty dollars for every such offence.⁶⁷

ART. CX.⁶⁸ The [said] inspector shall, under no pretence whatsoever, purchase a greater quantity of flour and pork than will be sufficient for his own immediate family use, under the penalty of two hundred dollars.⁶⁹

ART. CXI.⁷⁰ All spirits arriving in the port [of New Orleans], and not subject to a duty of importation, shall be gauged by one of the guagers, [of the said city], whose duty it shall be to mark on each and every barrel, cask, puncheon, or hogshead by him guaged, the number of the proof, and the quantity of gallons therein contained; and it shall be the duty of every owner or consignee of spirits to have the same guaged when sold in the city of New Orleans; and said guagers shall take the oath of office, and shall be entitled to demand and receive [⁷¹ twelve and a half cents per barrel, cask, puncheon or hogshead by them respectively gauged and marked]; and a fine of one dollar shall be imposed upon the owner or consignee, for each and every barrel, cask, puncheon, or hogshead of spirits, he shall sell, or cause to be sold, without having caused the same to be gauged as aforesaid; which fine shall be recovered before any justice or other competent authority, one half for the use of the informer, and one half for the use of the state.

ART. CXII.⁷² It shall be the duty of the said guagers to

⁶⁶ § 7, act 28 February, 1828, p. 46.

⁶⁷ See note 63, *ante*.

⁶⁸ § 8, act 28 February, 1828, p. 46.

⁶⁹ See note 63, *ante*.

⁷⁰ Part of § 2, act 24 March, 1828, p. 124.

⁷¹ See § 3, act 3 February, 1829, p. 52.

⁷² Part of § 2, *ibid*.

cut, or mark with ink, in a legible manner, on each and every barrel, cask, puncheon, or hogshead, by them respectively gauged, their name, their capacity of guager, and the designation of New Orleans ; and every guager neglecting to comply with this provision, shall be fined one dollar for each and every barrel, cask, puncheon, or hogshead which he shall not mark as aforesaid ; which fines shall be recovered⁷³ before any justice or other competent authority, one half for the use of the informer, and one half for the use of the state.

ART. CXIII.⁷⁴ No guager shall be concerned in the selling or purchase of spirits, as broker, or consignee, under the penalty of fifty dollars for each and every such offence.

ART. CXIV.⁷⁵ It shall not be lawful for a person to sell or otherwise dispose of the article of hay, in bale or bales, in the city of New Orleans and its incorporated faubourgs, without having had the same previously inspected and marked, agreeably to the provisions of [the act of 29 March, 1833, relative to weighers of hay], under the penalty of two dollars per bale, to be recovered before any court of competent jurisdiction, at the suit of the inspector or any other person ; which fine shall accrue for the benefit of the Male Orphan Asylum.

ART. CXV.⁷⁶ Each bale of hay shall be branded with the name of the weigher, the correct tare, and the nett weight, under the penalty of two dollars per bale, to be recovered from said inspector, before any court of competent jurisdiction, for

⁷³ This section enacted that the fines imposed by it should "be recovered and distributed in the manner provided by the second section of the act to which this is a supplement." The words of the latter, § 2, act 24 March, 1828, p. 1824, are inserted in the text.

⁷⁴ Part of § 1, act 3 February, 1829, p. 52.

⁷⁵ § 2, act 29 March, 1833, p. 90.

⁷⁶ § 3, *ibid.*

the benefit of the Male Orphan Asylum, at the suit of said Asylum, or any person who may wish to prosecute the same.

ART. CXVI.⁷⁷ Any person or persons who shall falsify the weight, or wilfully efface the marks or brands of the weigher, shall be liable to pay a fine of twenty dollars, to be recovered before any court of competent jurisdiction, which fine shall be for the benefit of the Male Orphan Asylum.

ART. CXVII.⁷⁸ Said weighers shall never be interested in any sale of hay, either directly or indirectly, under a penalty of one hundred dollars, for each and every contravention, to be recovered before any court of competent jurisdiction, for the benefit of the Male Orphan Asylum.

ART. CXVIII.⁷⁹ Any person, other than auctioneers appointed and authorized by the governor according to law, or civil officers acting under the authority of any court of the United States or of the state of Louisiana, who shall sell, or expose at public auction or vendue within this state, any property, moveable or immovable, or any right or interest therein, shall forfeit and pay a sum of one hundred dollars for each offence, to be recovered by the attorney-general on the application of the auditor [of auction sales].⁸⁰

ART. CXIX.⁸¹ No person shall expose to sale at public auction or vendue, any effects on which a duty is laid [by law], as a deputy to any auctioneer, under the penalty of five hundred dollars for each offence, [⁸² which forfeiture the treasurer shall cause to be sued for and recovered in the name, and for

⁷⁷ § 4, act 29 March, 1833, p. 90.

⁷⁸ § 5, *ibid*.

⁷⁹ Part of § 1, act 18 March, 1839, p. 100.

⁸⁰ The 6th, and, it is presumed the 5th, section of the act of 15 January, 1805, regulating sales at auction, 1 D. 34, is virtually repealed by this act.

⁸¹ Part of § 8, act of 15 January, 1805, 1 D. 35.

⁸² Part of § 5, *ibid*, 1 D. 34.

the use of the government of this state, in any court of record having cognizance thereof]: provided always, that any auctioneer may employ his partner in trade, or one of his clerks, to hold such auction or vendue, in case of sickness or inability, he being always responsible for the acts of such clerks or partner, and liable to all the penalties accruing from their mal-conduct.

ART. CXX.⁸³ The auctioneers' commissions shall be after the following rates: on the sale of real estates, ships or vessels, and slaves, one per centum, and on all other effects two and one half per centum on the value or price at which the same shall be sold as aforesaid⁸⁴; and any auctioneer who shall receive or accept of any higher or further reward for his services, in the sale of any effects whatsoever, shall forfeit the sum of five hundred dollars for every such offence, to be recovered as aforesaid.⁸⁵

ART. CXXI.⁸⁶ It shall not be lawful for [any] auctioneer, to proceed to the sale of any slave or real estate whatever, without producing at the time thereof from the office of registered mortgages, a certificate, stating whether there be any hypothecations of the said property so offered for sale, and if

⁸³ § 9, act 15 January, 1805, 1 D. 35.

⁸⁴ The 7th section of the act of 18 March, 1839, p. 104, provides—

“That no auctioneer shall demand or receive a higher compensation for his services than a commission of two and a half per centum on the amount of any sale, public or private, made by him.”

This clause must be inoperative, unless construed to repeal so much of the act of 1805, in the text, as limits the commissions of auctioneers on sales of real estate, vessels, and slaves to one per cent., yet it was probably not the intention of the legislature to alter the law in this respect; nor has it been considered, by the auctioneers in New Orleans, as making such a change:

⁸⁵ The 12th section of the act of 18 March, 1839, p. 106, provides, that “every auctioneer who shall refuse or neglect to perform any act or duty which, by the provisions of this act he is required to perform, shall be deemed to have forfeited his appointment, and shall be incapable of doing any act by virtue thereof.”

⁸⁶ § 10, act of 15 January, 1805, 1 D. 35.

any, to what amount. ⁸⁷ In case [any] of the said auctioneers shall proceed to any such sale, without complying with the directions [aforesaid], he shall be liable to a penalty of five hundred dollars for each offence, to be recovered by the purchaser at such sale, in any court having cognizance of that amount.⁸⁸

ART. CXXII.⁸⁹ No notary, or other person, or persons shall, under penalty in favor of the state of five hundred dollars for each and every offence, execute, or pass a deed of sale of real or personal property, predicated upon an adjudication at public auction, until the charges attending such sales be first paid in cash; which payment shall be made to appear to the notary by filing with him the receipt of the auctioneer, or his certificate to that effect attached to the process-verbal of the sale furnished to said notary, which receipt or certificate shall be annexed to such act of sale for reference; and moreover the state shall have a lien on the property sold, for the amount of the auction taxes, which lien may be enforced by executory process, on the certificate of adjudication.

⁸⁷ § 11, act 15 January, 1805, 1 D. 35.

⁸⁸ The third section of an act of 10 February, 1836, p. 53, imposes a fine of five hundred dollars on any commissioned auctioneer who shall violate any of the provisions of that act; but as it neither prescribes nor forbids any thing, it is difficult to see how its provisions can be violated. It is omitted as inoperative.

An act of 20 March, 1809, 2 D. 145, regulating the duties of notaries public in the city of New Orleans, provides—

Section 1. That from and after the passing of this act, it shall not be lawful for the notaries public in and for the city of New Orleans aforesaid, to pass any sale, or execute any lien upon real estates, without obtaining, prior to the time of passing or executing such acts, a certificate from the register of mortgages for this territory, stating whether there are any mortgages upon the same, and if any, to what amount, under the penalty of five hundred dollars for every such offence or omission; and the attorney general of said territory is hereby authorized and required to prosecute such notary before any court of competent jurisdiction for the recovery thereof, for the use of the territory aforesaid.

⁸⁹ § 3, act 7 March, 1838, p. 45.

ART. CXXIII.⁸⁰ Every person trading as a pedler or hawker,⁸¹ without having first obtained a license as is provided for by the law of the sixteenth of March, eighteen hundred and thirty,⁸² shall pay a fine of two hundred and fifty dollars, recoverable before any tribunal of competent jurisdiction in the parish where the offence shall have been committed, and for the benefit of the parish where said offender shall be prosecuted.⁸³

⁸⁰ Part of § 1, act 2 April, 1835, p. 204.

⁸¹ The act of the 16 March, 1830, declares, p. 120—

Section 9. That under the title of pedlers and hawkers, shall be included all persons whatever, selling or exchanging goods, wares, and merchandize, in any craft on the water courses of this state, as well as all persons who, either by themselves or by others, shall receive in payment for freight, either produce, goods, wares, or merchandize, or any or all of these articles, with intent to, or who shall actually barter, sell, or exchange the same in any way; provided however, that the provisions of this section shall not be construed to extend to any person or persons employed *bona fide* in selling on board any boat or water craft, the produce or manufactures of any of the United States, when such produce or manufactures alone are sold.

An act of the 2d April, 1835, p. 205, provides—

Section 2. That the ninth section of the above recited act of the sixteenth of March, eighteen hundred and thirty, be and the same is hereby amended so as to exempt from the payment of the tax on pedlers and hawkers those persons only who sell in the country the produce of their own plantation.

An act of 25 April, 1826, 2 D. 491, provides—

Section 13. That the act entitled “an act relative to the manner of granting license to pedlers and hawkers,” shall be so construed as to apply to every species of traders known by the old usages of the land under the name of *caboteurs*, whether those individuals barter, sell, or exchange goods and merchandizes on the water courses of this state, or whether they take goods, produce, or merchandize in payment of their freight, and afterwards sell the same.

⁸² But see section 5, act 2 April, 1835, p. 205, authorizing parish judges to grant pedlers' licenses, to persons producing receipts for the tax required by law.

⁸³ The residue of this section provides, that—

“It shall be the duty of the attorney general and of the district attorneys of the state, to prosecute all persons who shall have violated the provisions of this act, upon the denunciation of any planter, freeholder, or of the collector of the tax imposed on pedlers and hawkers, or of any deputy collector.”

An act of 4 March, 1841, p. 42, in relation to the town of Baton Rouge, provides—

Section 2. That every hawker and pedler, who shall trade or vend articles

ART. CXXIV.⁸⁴ Any person against whom a fine shall be decreed for having traded without a license, shall moreover be bound to pay to the collector, the amount of the license which he ought to have taken, either as a pedler or hawker.

ART. CXXV.⁸⁵ It shall be the duty of every pedler or hawker, before commencing any species of traffic or trade in this state, to cause to be affixed to the water craft or vehicle, of whatever description, in which his or her goods may be transported, a label bearing the name of the parish of his or her domicil, and bearing also the number of his or her boat or vehicle.

ART. CXXVI.⁸⁶ All pedlers and hawkers shall be bound to exhibit their license, when thereto required, to any freeholder of this state, and any person who shall act contrary to, or in violation of any of the provisions of [the act of 22 of February, 1820, relative to pedlers and hawkers—arts. CXXV, CXXVI, and CCXIV], shall, on due conviction thereof, before any court of competent jurisdiction, be fined in a sum which shall not exceed five hundred dollars, or be less than fifty dollars, one half to the use of the state and the other half to the benefit of the informer, and be further liable to imprisonment for a term not to exceed three months, or be less than fifteen days.⁸⁷

within the said corporate limits, without having obtained the aforesaid license, shall for every such offence, pay a fine at the suit of and for the benefit of said corporation, which shall not exceed one hundred dollars, to be recovered before any competent tribunal, for the benefit of said corporation.

⁸⁴ § 8, act 16 March, 1830, p. 120.

⁸⁵ Part of § 3, act 22 February, 1820, 2 D. 226.

⁸⁶ § 4, *ibid.* 227.

⁸⁷ The act of 22 February, 1820, was intended, doubtless, to repeal the second section of the act of 8 April, 1811, 2 D. 225.

The act of 1820 further provides, p. 227—

Section 6. Whenever it shall appear, upon proper affidavit, to the satisfaction of any judge or justice of the peace, that any of the foregoing provisions have been contravened or violated, it shall thereupon be the duty of the judge

ART. CXXVII.⁸⁸ It shall be the duty of all persons who shall hereafter carry on the business of shipping of seamen pursuant to the provisions of the [act of 19 March, 1839, to prevent the carrying away of slaves], previously to their engaging in the same, to give bond with two good securities, freeholders of said parish, payable to the governor and his successors in office, in the penal sum of ten thousand dollars, conditioned as follows: that he the said shipping master and his sureties shall be liable, in solido, for the price and value of any slave or slaves who may have been regularly shipped by the said shipping master and carried out of the state of Louisiana, the same to be recovered by the owner or owners of such slave or slaves, with all damages accruing thereupon, by prosecution upon the said bond before any court of competent jurisdiction: provided, that said bond shall not become void by the first or any other recovery, but may be put in suit and recoveries be had thereon as often as any breach of the condition may happen. And any person or persons who shall act as a shipping master without complying with the foregoing conditions, shall be fined one thousand dollars, and suffer imprisonment for six months at hard labor.⁸⁹

or justice of the peace before whom the complaint is made, to issue a writ of attachment, commanding the sheriff of his parish, or any constable therein, to attach and seize any and all carts, carriages, boats, or water crafts belonging to, or which may be found in the possession of the pedler or hawker complained of, together with all goods, wares, and merchandize found therein, and, the same safely in his possession keep, in order to abide the decision of the court, and to answer for the fines which may by this act be imposed: provided however, that any person thus arrested, may release his person and property by entering into bond, with good and sufficient freehold security, for his appearance at court.

Section 8. It shall be the duty of the attorney general, and the district attorneys throughout the state, to prosecute all persons contravening the provisions of this act, on information of any freeholder.

⁸⁸ § 1, act 19 March, 1839, p. 118.

⁸⁹ This act further provides, p. 120—

Section 3. That all fines incurred under the provisions of the foregoing sections shall be recovered for the benefit of the New Orleans charity hospital, and may be prosecuted at the instance of said institution.

Section 4. That the owner or owners of such ship, steamboat, or other craft,

ART. CXXVIII.¹⁰⁰ Whenever any master, or owner of any ship or vessel, steam-boat, or other craft, trading to the port of New Orleans, shall, while in said port, find it necessary to ship any seaman or seamen, cook, or steward, for said ship or vessel, it shall not be lawful for them, under penalty of a fine of one thousand dollars and imprisonment at hard labor for six months, to employ any shipping master or other person, excepting they have complied with the [last article].¹⁰¹

ART. CXXIX.¹⁰² No master of a vessel in the ports [of New Orleans, bayou St. John,¹⁰³ Franklin in the parish of St. Mary, or in any other port of entry in this state], or any person for him, shall ship any seaman who shall not produce such discharge as is provided for by the first section of [the act of 11 January, 1822, for the regulation of seamen in the said ports¹⁰⁴]: provided always, that when any seaman shall offer to be shipped, without producing such certificate, the master or other person desirous of engaging him, shall, previously thereto, give twelve hours previous notice that such seaman

and the master thereof, as well as the vessel, steamboat, or other crafts, shall be liable to the owner of any slave so taken out of the state, for the value of said slave.

¹⁰⁰ § 2, act 19 March, 1839, p. 120.

¹⁰¹ See note 99, *ante*.

¹⁰² § 3, act 11 January, 1822, 2 D. 369.

¹⁰³ The act of 8 March, 1841, § 1, p. 67, extended the act of 11 January, 1822, in the text, to the port of Franklin in the parish of St. Mary, and to all other ports of entry in the state.

¹⁰⁴ This section, 2 D. 369, extended by the act of 1841 to all ports of entry in the state, provides—

“That the master of every vessel arriving from sea into the port of New Orleans or of bayou St. John, shall give to every person shipped on board such vessel, who shall be entitled to his discharge, in either of the said ports, or who shall be discharged there, a certificate in the following form :

A. B. one of the crew of the ship or vessel called the
of on her voyage from to
is hereby discharged.

Dated of in the year of

Signed,

C. D. commanding said vessel.”

has applied to be shipped without a discharge, to all the masters of vessels then in port, who have, within two months, next before, advertised any deserter from their vessels, in the mayor's office, according to [the said act]; until the expiration of which twelve hours, the master of any vessel to whom such seamen may apply to be shipped, is authorized to detain him on board his vessel, to the end that he may be reclaimed if he is a deserter; but if such seaman be not so reclaimed, it shall be lawful to engage him without producing any such certificate; and if any master of a vessel shall ship any seaman contrary to the provisions of [the said] act, he shall forfeit fifty dollars, to be recovered by any person who will sue for the same, in any court of competent jurisdiction.

ART. CXXX.¹⁰⁶ If the keeper of any tavern, lodging, or boarding house, shall knowingly receive, harbor, lodge, or conceal any deserter from any merchant vessel, such person so offending shall, on conviction, by information or indictment, forfeit the sum of one hundred dollars, or shall be confined, not exceeding thirty days, at the discretion of the court.

ART. CXXXI.¹⁰⁶ If any master or other person shall resist or oppose [any harbor-master¹⁰⁷ of the port of New Orleans]

¹⁰⁶ § 5, act 11 January, 1822, 2 D. 370.

¹⁰⁶ Part of § 2, act 31 March, 1805, 1 D. 511.

¹⁰⁷ This act, as originally passed, read—If any master or other person shall resist or oppose the "*said harbor-master*," &c. An act of the 8 March, 1841, p. 104, provides—

Section 2. That from and after the passage of this act it shall be the duty of the governor to nominate, and, by and with the consent of the senate, appoint three harbor-masters for the port of New Orleans, who shall hold their office for two years, one of which shall be assigned to each municipality, designating at the time of his nomination the municipality to which he shall be assigned; and each of said harbor-masters, within their respective municipalities, shall be held to the discharge and performance of all the duties now done or required to be done by the harbor-master created by the act of 31st March, 1805, all parts of which act, except the creating and appointing clause, shall be and remain in full force and virtue.

in the execution of the duties of his office, such master or other person having charge of any ship or vessel, or other person whatsoever, shall, for every such offence, forfeit and pay the sum of fifty dollars, to be recovered, with costs of suit, in the name of the treasurer of the [¹⁰⁸ municipality of the] city of New Orleans [to which such harbor-master may belong], before any court having cognizance thereof; all which fines, when collected, shall be paid to the said treasurer for the use of the hospital of the said city.

ART. CXXXII.¹⁰⁹ If any person, not appointed a branch pilot, shall pilot any ship or other vessel either in or out of the river Mississippi, when a branch pilot offers, he shall forfeit and pay to said branch pilot the sum of thirty dollars, or in default thereof, be condemned to seven days imprisonment.¹¹⁰

ART. CXXXIII.¹¹¹ Every person upon offering to pilot a ship or other vessel over the bars at the different mouths of the river Mississippi, shall, if required, exhibit to the commander of said ship or vessel his branch as pilot aforesaid, and upon his refusing or neglecting to exhibit his branch when demanded, as aforesaid, he shall not be entitled to any remuneration for any service he may render as pilot.¹¹²

¹⁰⁸ This act, as originally passed, reads—"in the name of the treasurer of the city of New Orleans." The office of treasurer of the city of New Orleans was virtually abolished by the act of 8 March, 1836, p. 28, dividing the city into three municipalities, with separate corporate powers, and providing, § 23, p. 37, for the appointment of a treasurer for each municipality. The duties prescribed to the treasurer of the city are devolved, by the act of 1836, upon the treasurer of that municipality to which the harbor-master may belong whose authority is resisted.

¹⁰⁹ Part of § 5, act 13 March, 1837, p. 102.

¹¹⁰ The preceding part of this section, not inserted in the text, repealed all laws authorizing branch pilots or others to appoint or employ deputy pilots under them.

¹¹¹ § 6, act 13 March, 1837, p. 102.

¹¹² The 15th section of the act of 31 March, 1805, 1 D. 516, provides, that "every branch pilot of the port of New Orleans shall be owner or part owner of a pilot boat, of not less than twenty-two feet keel, and seven feet and a half

ART. CXXXIV.¹¹³ Whenever any branch pilot shall have, when practicable, refused or neglected to go on board any ship or other vessel, when called by signal or otherwise, he shall lose his commission, and be for ever incapacitated from being commissioned as pilot, and shall moreover be liable to be fined in the sum of five hundred dollars, in default of the payment whereof [he shall] suffer imprisonment for a time not less than three months nor more than six months.

ART. CXXXV.¹¹⁴ No branch pilot shall be allowed to leave his station for more than three consecutive days, unless he shall have obtained a written permission so to do, from the master and wardens of the port, under a penalty of fifty dollars: provided, that permission shall, in no case, be granted to more than two branch pilots to leave their station, at one and the same time.¹¹⁵

ART. CXXXVI.¹¹⁶ [Any harbor-master¹¹⁷ of the port of

beam, and to row not less than twelve oars, and shall keep such boat exclusively employed as a pilot boat; and every such branch pilot, not owning or employing a pilot boat as aforesaid, shall forfeit his office, and in the mean time shall be suspended as aforesaid by any three of the master and wardens aforesaid.]”

¹¹³ § 10, act 13 March, 1837, p. 103.

¹¹⁴ § 8, act 1 March, 1826, 1 D. 522.

¹¹⁵ The last section of this act provides—

Section 9. All fines, forfeitures, or penalties provided for or decreed by this act, shall be sued for and recovered in the name of the master and wardens of the port, before any court of competent jurisdiction, and for the use and benefit of the charity hospital of New Orleans.

A subsequent act of 24 January, 1827, 1 D. 522, amending the act of 31 March, 1805, 1 D. 510, further provides—

That it shall be, forthwith, the duty of the treasurer of the charity hospital of the city of New Orleans, to sue, in his said capacity, for the recovery of the fines which may be incurred under the provisions of the second and fifth sections of the act to which this is an amendment [arts. CXXXI, CXXXVI]; said fines, when recovered, to be paid to the said treasurer for the use of the said hospital.

¹¹⁶ § 5, act 31 March, 1805, 1 D. 512.

¹¹⁷ See the act of 8 March, 1841, note 107, *ante*, substituting three harbor-

New Orleans] shall have power to order any branch pilot¹¹⁸ whom he may find in the city of New Orleans, to return to his station at the Balize. And any pilot refusing to comply with the said order, or who shall evade the same, or shall refuse or neglect to perform any of the duties imposed upon him, [by the act of 31 March, 1805, relative to the pilots of the port of New Orleans], shall, on due proof thereof made to the master and wardens of the said port, be subject to a fine not exceeding fifty dollars, to be recovered, with costs of suit, before any court having cognizance thereof, in the name of the treasurer of the [¹¹⁹ municipality of the] city of New Orleans [to which such harbor-master may belong], for the use of the hospital thereof, or to be rendered incapable of acting as a pilot thereafter, as in the judgment of the said master and wardens may be deemed proper.

masters for the one in existence at the time of the passage of the act in the text.

¹¹⁸ The words "*or deputy pilot*" in the original act, are omitted; all laws authorizing the appointment or employment of deputy pilots, having been repealed by the first clause of section 5, of the act of 13 March, 1837, p. 102.

¹¹⁹ This act, as originally passed, read—"in the name of the treasurer of the city of New Orleans." See note 108, *ante*.

CHAPTER VII.

OFFENCES AGAINST THE PUBLIC POLICE OR ECONOMY.

CXXXVII. *Bigamy.* CXXXVIII. *Incest.* CXXXIX. *Celebrating marriage by an unlicensed person—CXL. or except on production of license from parish judge specially authorizing the same.* CXLI—III. *Nuisances in or upon highways, bridges, rivers, bayous, creeks, bays, or lakes.* CXLIV. *Commencing or finishing any embankment on the Mississippi in front of another, or constructing any work on the shore of any navigable river tending to alter its course, or increase its rapidity, or render the navigation more difficult, or to embarrass the public use of the same, or of any other public place.* CXLV. *Receiving compensation for landing any article on, or other lawful use of the shore of any navigable river.* CXLVI. *Stopping any outlet or natural bayou of the Mississippi.* CXLVII. *Placing obstructions on any railway, with intent to hinder, impede, or endanger the free passing thereon.* CXLVIII. *Breach of bond by any innkeeper.* CXLIX. *Keeping tippling shop, or retailing spirituous or intoxicating liquors, without license.* CL. *Keeping any disorderly inn, tavern, ale house, tippling house, gaming house, or brothel.* CLI. *Permitting any game of chance, quarrelling, obscene language, or fighting in his inn, by any innkeeper, without giving information thereof.* CLII. *Selling, by any innkeeper or retailer of spirits, fermented or intoxicating liquor to any soldier of the United States, knowing him to be such, with-*

out permission from commissioned officer. CLIII. Selling or giving spirituous or intoxicating liquors to any Indian. CLIV—CLVIII. Gaming. CLIX. Betting on elections. CLX—III. Offences against the laws prohibiting lotteries. CLXIV—CLXVII. Vagabonds and suspicious persons. CLXVIII. Harboring vagrants or suspicious persons, knowing them to be such. CLXIX. Vagabonds found within the state, in violation of bond to leave the same. CLXX. Power of sheriff of parish, or mayor of New Orleans to bind out to service at hard labor, vagrant sentenced to imprisonment. CLXXI. Failure of master of vessel arriving at New Orleans to report name, age, occupation, and means of subsistence of passengers. CLXXII—III. Suffering any passenger, not a citizen of the United States, to land before giving bond. CLXXIV. Refusal of alien arriving in the state to submit to examination, &c., required by law. CLXXV. Penalty on master of vessel suffering any passenger, not a citizen of the United States, to land, with intent to proceed to New Orleans otherwise than in said vessel. CLXXVI. Knowingly entertaining any alien so landed, or failure by any householder in the city or suburbs of New Orleans, to report such alien to mayor or recorders. CLXXVII. Practising as physician, apothecary, or midwife, without license. CLXXVIII. Apprentice or bound servant absconding, or absenting himself from service of master. CLXXIX. Consenting to, or passing act of emancipation, contrary to law. CLXXX. Disrespectful conduct in free persons of color towards whites. CLXXXI. Carrying arms by free colored persons, without certificate of a justice attesting their freedom. CLXXXII—V. Free persons of colour emigrating to this state—CLXXXVI. or being found in any parish, after period assigned for departure from the state—CLXXXVII. or coming as seamen, or in other capacity attached to any vessel, and not departing with such vessel, or in time fixed by law—CLXXXVIII—IX. or returning to the state after having

left the United States. CXC. Neglect of notary or other officer passing any act in which free persons of color are concerned, or of printers or auctioneers advertising sales of property of any such persons, to insert certain words after the names of such free persons of color. CXCI—II. Importing, or bringing into the state slaves convicted or accused of certain crimes, or who have resided in any county during an insurrection. CXCIII. Knowingly importing, or bringing into this state, any free negro or colored person convicted of any crime, and sentenced to serve a term of years. CXCIV. Free negro or person of color convicted of crime elsewhere, being found in this state. CXCV. Master of vessel or other water craft knowingly bringing into this state any slave or free negro so convicted. CXCVI. Buying or selling any such slave, or other person, knowing them to have been introduced contrary to law. CXCVII. Bringing into the state any slave of or under ten years, unaccompanied by its mother, if living. CXCVIII—CCXVIII. Offences against the laws regulating the police of slaves :—CCXIX—CCXXVIII. against the laws relative to steamboats.

ART. CXXXVII.¹ If any person or persons, being married, shall intermarry with any person, or persons, the former husband or wife being alive, he, she, or they so offending, shall, on conviction thereof, pay a fine not exceeding five hundred dollars, and be imprisoned not exceeding two years ; provided nevertheless, that this [article] or any thing therein contained shall not extend to any person or persons whose husband or wife shall absent himself or herself, one from the other, for the space of five years, the one of them not knowing the other to be living within that time, nor to any person or persons who shall be, at the time of such marriage, divorced by competent authority, or to any person or persons whose

¹ § 21, act 4 May, 1805, 1 D. 366.

former marriage, by sentence of competent authority, shall have been declared void.

ART. CXXXVIII.² Every person who shall commit the abominable crime of incest, shall, on conviction thereof, suffer imprisonment and hard labor for life.³

ART. CXXXIX.⁴ Any person who shall celebrate a marriage without having previously obtained a license as directed [by the act of 6 April, 1807, concerning the celebration of marriages], shall pay a fine not exceeding ten thousand dollars, nor less than five thousand dollars, at the discretion of the [district court], and shall also suffer twelve months imprisonment.⁵

ART. CXL.⁶ No person authorized to marry shall unite persons in matrimony, except upon the production of a license from the judge of the parish in which the marriage is to be celebrated, authorizing such person specially to proceed to solemnize the same. ⁷Any person proceeding to the celebra-

² § 1, act 22 February, 1817, 1 D. 384.

³ The Civil Code of Louisiana, re-enacting the provisions of § 14 and 15 of the act of 6 April, 1807, 2 D. 5, provides—

Art. 96. Marriage between persons related to each other in the direct ascending or descending line, is prohibited. This prohibition is not confined to legitimate children, it extends also to children born out of marriage.

Art. 97. Among collateral relatives, marriage is prohibited between brother and sister, whether of the whole or of the half blood, whether legitimate or illegitimate, and also between the uncle and the niece, the aunt and the nephew.

Art. 98. All other impediments on account of relationship or affinity, are abolished.

⁴ § 30, act 6 April, 1807, 2 D. 7.

⁵ See § 27-9 of this act, 2 D. 7. The section in the text originally read, "at the discretion of the *Superior court of this territory*." By § 16 of the act of 10 February, 1813, 1 D. 295, art. CCCXLVIII, the district courts were invested with the powers of the Superior court of the territory of Orleans.

⁶ § 31, act 6 April, 1807, 2 D. 7.

⁷ § 32, *ibid*. This section in the original act, reads, "at the discretion of the Superior court." See note 5 *supra*.

tion of any marriage in violation of [this article], shall pay a fine of not more than five thousand dollars, and shall moreover suffer an imprisonment of not more than two years, at the discretion of the [district] court.

ART. CXLI.⁸ Whoever shall be guilty of making or erecting any common nuisance in or upon any highway, bridge, or public river, or bayou in this state, shall suffer fine or imprisonment, or both, at the discretion of the court,⁹ and the court may besides order such nuisance to be destroyed, abated, or removed.¹⁰

⁸ § 6, act 19 March, 1818, 1 D. 388.

⁹ The 12th section of the act of 19 March, 1818, 1 D. 389, art. DXXXVII, provides, that where "the punishment of fine and imprisonment are left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years."

¹⁰ An act of 12 March, 1836, amending the act incorporating the town of Nachitoches, provides, p. 191—

Section 2. That as by the act of incorporation no penalty is provided for the overseer of the streets and roads within the town, for neglecting to keep them in repair, the district court shall have the power to fine said overseer in a sum not exceeding five hundred dollars for such neglect.

In some instances the legislature has, by provisions in the acts of incorporation of different companies, provided specially for any wilful or malicious injury to their property. See their charters. And see an act of 24 February, 1819, 1 D. 550, for improving the navigation of certain bayous in the parish of Rapides, and an act of 16 March, 1820, 1 D. 538, for improving the navigation of the bayou La Fourche. These acts impose a penalty of two hundred dollars on the owners of lands neglecting to remove any impediments obstructing the navigation of the said bayous, and a fine of five hundred dollars on the inspectors appointed under the said acts, who neglect the duties imposed on them. An act of 17 March, 1823, 1 D. 546, provides—

Section 1. That all and every person or persons who shall obstruct or impede the free passage or towing path which is on the left bank of bayou Plaquemine, leaving thereon either pickets, lumber, shingles, planks, or any other materials whatever, shall be condemned by any court of competent jurisdiction, to a fine of forty-nine dollars for each and every offence, which sums shall be applied to the keeping of the path and bayou aforesaid.

Section 2. All fines that are incurred shall be transmitted, together with the receipts, to the treasurer of the parish of Iberville, to be subject to the disposal of the commissioners appointed to superintend the improvement of the navi-

ART. CXLII.¹¹ Whosoever shall fell or throw any tree or trees or parts thereof, or cause the same to be felled or thrown into any navigable river, bayou, creek, bay, or lake within this state, or in any other manner do, or cause to be done any act with a view wilfully to obstruct the navigation thereof, or render the same dangerous or difficult, and shall permit such tree or trees, or parts thereof, to remain in said river, creek, or bayou for a longer space of time than forty-eight hours, shall, on conviction thereof, or information or indictment, before any court of competent jurisdiction, be fined for each tree or part thereof, or other obstruction that may remain for a greater length of time than aforesaid, a sum of not less than twenty dollars, nor more than one hundred dollars, at the discretion of the court, and the person or persons so convicted may be committed to prison by order of the court for not more than twenty days, if said fine and costs are not paid.

ART. CXLIII.¹² Hereafter when any person shall construct a mill-dam on any of the streams of the eighth judicial district, it shall be his duty to leave a lock or passage of at least fourteen feet in width through said dam, for the passage of rafts or boats, and, in default thereof, [he] shall be liable to pay a penalty of ten dollars for each day that the stream shall remain obstructed by said dam, to be recovered before any court of competent jurisdiction, for the use of the parish in which said dam shall be situated.

ART CXLIV.¹³ Any person who shall in contravention to the act [of 15 February, 1808, concerning the police of the

gation of said bayou; and it shall be the duty of the district attorney of the fourth judicial district, to prosecute before any competent tribunal, any person who may offend against the present act, or who may have received fines and not given any account of the same to the treasurer, conformably to this act and that to which this is a supplement.

See articles CXLII, and CXLIII.

¹¹ § 1, act 10 March 1834, p. 104.

¹² § 2, *ibid*, 105.

¹³ § 3, act 15 February, 1808, 1 D. 651.

shores of navigable rivers], and to the laws to which it refers, commence or finish any new levee, dike, or other embankment, on the banks of the Mississippi, in front of another already existing, or who shall make on the shores of the said river, or other navigable streams of this [state], any work tending to alter the course of their waters, or increase their rapidity, or make their navigation more difficult, or who shall make on the said shores, or in any other place of public use, any work tending to hinder or embarrass such public use, contrary to the spirit and true intent of the laws which are in force in this [state], shall be liable to prosecution, by information, before the court of the parish where such nuisance shall have been committed, and shall, upon conviction, be compelled to pay the sum of one hundred dollars for every offence committed in contravention of the provisions of [the said] act, to be recovered in the parish court, and to be paid into the treasury of this [state], for the use thereof; and the said court shall further order the nuisance to be removed, and the expense attending such removal to be paid, as well as other costs, by the party convicted.

ART. CXLV.¹⁴ Any person who shall be convicted of having received any compensation for the landing of any embarkation before his land, or for any other use permitted by the laws of this [state], which provide that the shores of navigable rivers shall remain free for the common use of all men, shall, for each contravention of that kind, be fined in a sum not less than five hundred dollars : provided, that the present provision shall not be applicable to the duties which corporations of cities or towns have a right to establish in their ports.

ART. CXLVI.¹⁵ It shall not be lawful to stop any outlet or natural bayou of the Mississippi, and should any such be closed the opening of it may at any time be ordered by the

¹⁴ § 4, act of 15 February, 1808, 1 D. 652.

¹⁵ § 9, act 25 March, 1835, p. 151.

board of public works ; and any person or persons who may have caused the closing of such outlet or bayou, shall be liable for all the expense necessary for the re-opening, and such other damages not less than one thousand dollars, nor more than ten thousand dollars, at the discretion of any court of competent jurisdiction : provided that this [article] shall not apply to any bayous already closed, and that may be hereafter opened by crevasses.¹⁶

ART. CXLVII.¹⁷ Any person or persons [who] shall willingly place any obstruction or obstructions upon any railroad or rail way, heretofore made, or that may hereafter be made, within the state of Louisiana, with intent to hinder, obstruct, impede, or endanger the free passing thereon, shall, if a free person, on conviction thereof, be imprisoned not exceeding six

¹⁶ The act of 18 March, 1839, p. 110, provides—

Section 4. If any person or persons shut up, by means of a fence or any other obstruction, or in any way obstruct any part of the bayou of *Terre aux Bœufs* from the Mississippi river to the lake, or any public road acknowledged as such, or of which the public shall be in actual possession, in the parish of St. Bernard, the police jury of said parish shall have the power to cause the said fence or other obstruction to be removed at the expense of the person who shall have erected the same, after having given written notice to said person, if he be known and reside in the parish, to destroy or remove the same within any delay the said police jury shall determine ; or if said person be not known, or does not reside in the parish, the said police jury shall cause the said fences or other obstructions to be removed, or sold, if said objects are saleable, after three days notice, posted up at the court house of said parish.

Section 5. If any person or persons make any works or building, or cause houses, sheds, dykes, or keys to be made, in front and out of the levees already existing in the limits of the parish of St. Bernard, whether said works, buildings, houses, sheds, dykes, or keys be only commenced or completed, without being authorized by the police jury of St. Bernard, the said police jury shall have the power to cause the works so commenced or completed, to be destroyed at the expense of the owner of the same, without being obliged to apply to a court of justice. The provisions of this section shall extend to all works which might be made between the levee and the waters of the Mississippi river in its lowest stage.

¹⁷ Part of act of 1 April, 1833, p. 138 ; the remainder provides for the punishment of the same offence when committed by slaves.

months, nor less than one month, and fined not exceeding five hundred dollars, nor less than one hundred dollars.

ART. CXLVIII.¹⁸ The applicant [for a license to keep an inn shall], before the said license is delivered to him, enter into and acknowledge his bond with sufficient sureties, in the penal sum of five hundred dollars, payable to the judge and his successors in office, conditioned for the constantly keeping and providing his said inn with good, clean, and wholesome diet and lodging for travelers, and stabling, provender, or pasturage for horses, for and during the time of his license, and for the due observance of all laws and ordinances which may be in force in this [state] relating to innkeepers; and in case of breach of, or not complying with the condition of said bond, it shall and may be lawful, in the name of the judge, to sue for and recover in any court of competent jurisdiction, the penalty of said bond, and apply one half thereof to his or her own use, and the other half to the use of the [parish] where the cause of action may arise.¹⁹

¹⁸ Part of § 1, act 21 May, 1806, 1 D. 563.

¹⁹ The word *parish*, between brackets, is substituted for the word "*county*," in the act as originally passed, the subsequent act of 31 March, 1807, which divided the territory into parishes (§ 9, p. 10), having virtually abolished the division into counties, except for certain special and limited purposes. The act of 1807, after dividing the territory into parishes, provides, p. 50—

Section 32. That the division of the territory into counties shall subsist for the purpose of making the election of the representatives of the territory, and levying the territorial taxes.

The 9th section of the act of 1806, declares that it shall not extend to the city of New Orleans. It is provided by an act of 1 March, 1826, 1 D. 521.

Section 6. That no license shall be granted to any person to keep a tavern, grog shop, billiard house, or any other house of public entertainment at the Balize, the Southwest Pass, or any other station for pilots, or within three miles from such station, unless the person applying for such license shall be recommended in writing by a majority of the branch pilots; and any person keeping any public house, as aforesaid, at any of the places aforementioned, without a license, shall pay a fine of fifty dollars for each and every week such public house shall be kept, and moreover be obliged to shut up or remove such public house: provided, that nothing in this section contained shall be so con-

ART. CXLIX.²⁰ No person shall be allowed to keep a grog or tippling shop, or retail²¹ spirituous or intoxicating liquors, without previously obtaining a license from the police jury, or town, or city corporation, of the parish in which they shall keep such grog or tippling shop, or retail spirituous or intoxicating liquor, under the pain of being criminally prosecuted, and, on

strued as to exonerate persons keeping public houses, without a license, from the fines or other penalties decreed by the parish regulations.

And by an act of 3 February, 1832, p. 40.

Section 5. That from and after the fifteenth day of April next, no person shall sell spirituous liquors or wines in a smaller quantity than one gallon, or keep a billiard table, or tavern, within the limits of said town of Franklin, without first obtaining from the president of the board of trustees of said town a license for that purpose; the price of which shall be regulated from time to time by said board of trustees.

Section 6. That any person who shall sell, within the limits of said town of Franklin, any article specified and mentioned in the above section before obtaining a license, as above directed, shall, for each and every offence, be compelled to pay a fine of not less than five nor more than fifty dollars; and every person who shall keep a tavern or a billiard table within the limits of said town, before obtaining a license as aforesaid, shall, for each and every day that he shall so keep a tavern or billiard table, be compelled to pay a fine of ten dollars.

Section 7. That all fines incurred in pursuance of the provisions of the above sections relating to the town of Franklin, shall be recovered at the suit of the president of the said board of trustees before any justice of the peace, keeping his office within the limits of said town; and in all such cases the proceedings shall be the same as in other cases of debt, provided, however, that the defendant shall be cited to appear in three days after service of the warrant or citation.

²⁰ § 7, act 2 April, 1832, p. 166.

²¹ The following provision of the law of 21 May, 1806, 1 D. 564, may serve to explain the legislative meaning of the word *retail*.

Section 4. If any person or persons shall sell any spirituous, fermented, or intoxicating liquor, in less quantity than one quart, without a license first obtained, he shall for every such offence forfeit and pay the sum of forty-nine dollars into the treasury of the county: provided nevertheless, that nothing in this act contained, shall be construed so as to prevent merchants and shopkeepers from retailing liquors in any quantity above two quarts, so that the same be not drank in their stores.

This section, with § 2 of the act of 3 July, 1805, 1 D. 563, are virtually repealed by the act inserted in the text.

conviction, of being fined not less than one hundred dollars, nor more than five hundred dollars ; and in default of paying such fine and costs, of being imprisoned not less than fifteen days nor more than four months : provided, that nothing contained in this [article], shall be construed to extend to licensed tavern keepers, or keepers of billiard tables.²²

ART. CL.²³ Whoever shall be guilty of keeping any dis-

²² An act of 9 March, 1836, p. 117, provides—

Section 14. That no person shall be licensed to keep a tavern and retail spirituous liquors, or to keep a billiard table, or to keep a grog shop, or to sell spirituous liquors by retail in the parish of Rapides, unless he, she, or they shall have first procured the enactment of a special ordinance in his, her, or their favor by the police jury of said parish, authorizing him, her, or them, to procure such license ; and if any person or persons shall infract or evade any of the provisions of this section, he, she, or they shall be fined and imprisoned at the discretion of the court ; and the police jury of the parish of Rapides is hereby empowered to annul and rescind any such ordinance, and every such ordinance shall be null and void at the expiration of one year after its enactment.

Section 15. That none other than free white citizens shall be licensed to keep a tavern, or a billiard table, or a grog shop, or to sell spirituous liquors in the parish of Rapides ; and every license granted to any other person or persons, is hereby declared null and void to all intents and purposes ; and any such license shall not be allowed as evidence in any criminal prosecution.

A subsequent act of 12 March, 1838, p. 101, further provides—

Section 1. That the parish judge of the parish of Rapides, shall issue the licenses contemplated by the 14th section of an act, entitled “an act to establish the manner of electing police jurors in the parish of Rapides, and for other purposes,” approved 9th March, 1836, whenever the person applying for the same shall furnish him with a copy of the ordinance required by said section, and shall exhibit to him the collector's receipt for the state and parish taxes, and shall moreover give bond, with approved security, in the cases required by previous acts of the legislature ; and a license from any other person or source shall not be allowed as evidence on a prosecution under said section.

Section 2. That any person who shall keep a tavern and retail spirituous liquors, or keep a billiard table, or keep a grog shop, or sell spirituous liquors by retail within said parish, without having first obtained a license as provided by the preceding section, shall suffer fine and imprisonment at the discretion of the court. [See note 9, *ante*.]

Section 3. That selling less than a quart shall be construed selling by retail under this act, and the act which it purports to amend.

²³ § 7, act 19 March, 1818, 1 D. 388.

orderly inn, tavern, ale house, tippling house, gaming house, or brothel, shall suffer fine or imprisonment, or both, at the discretion of the court,²⁴ and the offender may likewise be adjudged to lose and forfeit whatever license he or she may have obtained to keep a house of public resort or entertainment.²⁵

ART. CLI.²⁶ No innkeeper shall permit any person or persons to play at any game of hazard or chance in his inn, or permit any quarrelling, obscene language, or fighting, without giving information thereof immediately to the judge or justice of the peace of his [parish], under the penalty of twenty

²⁴ See note 9, *ante*.

²⁵ An act of 20 March, 1838, p. 210, provides—

Section 22. That [when] any person who may obtain a license to retail spirits and other liquors as aforesaid, in the town of St. Francisville, or who may have already obtained a license for that purpose, shall keep a disorderly tavern, grog shop, or tippling house, it shall be the duty of the trustees of said town, on proper presentment, and on due proof being made thereof, to annul such license; and it shall be the duty of the president of the board of said trustees, to see that said order be strictly enforced; and any person or persons who shall persist in selling spirits or other liquors in said town, in a less quantity than one fourth of a gallon, after his, her, or their license shall have been annulled as aforesaid, shall be subject to all the pains and penalties now inflicted on persons who may sell spirits and other liquors as aforesaid, without a license. In all presentments to the board, and trials of such persons who may keep any disorderly tavern, grog shop, or tippling house as aforesaid, the mode of procedure shall be regulated by the trustees of the town of St. Francisville, as aforesaid, and they are empowered to pass any ordinance regulating the same, not inconsistent with the laws of the United States, or the laws of the state of Louisiana. Whenever any person or persons shall be found guilty of keeping a disorderly tavern, grog shop, or tippling house, it shall be the duty of the president of the board of trustees, to bind over such person or persons, as well as their securities, to the third district court of the parish of West Feliciana, in such sum, or sums, with approved security, as he may deem necessary and expedient, conditioned, that they shall appear at the next district court as aforesaid, to answer to the charge of keeping such disorderly tavern, grog shop, or tippling house, as aforesaid, and for the forfeiture of their bond conditioned to keep an orderly house as aforesaid; and it shall also be his duty to bind over all witnesses important to said prosecution, in the same manner as now pointed out by law.

²⁶ § 7, act 21 May, 1806, 1 D. 565.

dollars for every offence or neglect, to be recovered by any judge or justice of the peace, and paid into the [parish] treasury.²⁷

ART. CLII.²⁸ If any innkeeper, or retailer of spirits shall sell any kind of spirituous, fermented, or intoxicating liquors to any soldier or soldiers stationed within this [state], belonging to and in the actual service of the United States, knowing him or them to be such, without permission from one of his or their commissioned officers, such innkeeper, or other person as aforesaid, so offending, shall, for every such offence, forfeit and pay the sum of twenty dollars, one half to the use of the [parish], and the other half to the party suing for the same; provided, that nothing contained in this [article] shall be so construed, as to extend to those who are permitted to sell within the military lines.

ART. CLIII.²⁹ If any person or persons shall sell, or give any spirituous or intoxicating liquors to any indian or indians, the person so offending, shall, upon conviction thereof before a competent tribunal, forfeit and pay the sum of two hundred dollars, one half for the use of the [parish], and the other half for the use of the party suing for the same; and moreover shall be liable for all mischiefs, injuries, or damages, [that] may be caused by said indian or indians while in a state of intoxication produced as aforesaid, to the person or persons sustaining the same.

ART. CLIV.³⁰ All gaming houses and banking games in this state shall be, and are hereby suppressed.

²⁷ This act does not extend to the city of New Orleans, see § 9. The word *parish*, between brackets, is substituted for the word *county* in the original act. See note 19, *ante*.

²⁸ § 5, act 21 May, 1806, 1 D. 565. See last note. The word *parish*, between brackets, substituted for *county*, see note 19, *ante*.

²⁹ § 1, act 29 December, 1812, 1 D. 565. The word *parish*, between brackets, substituted for *county*, see note 19, *ante*.

³⁰ § 1, act 19 March, 1835, p. 134.

ART. CLV.³¹ If any person or persons shall keep a banking house³² or banking game, or shall aid or assist in keeping a banking house or banking game, every such person or persons, so offending, on conviction thereof, shall, for the first offence, be fined not less than one thousand dollars, nor more than five thousand dollars; and shall, on conviction of a second offence, be fined not less than five thousand dollars, or more than ten thousand dollars,³³ and be imprisoned at hard labor in the penitentiary for a term not less than one year, or more than five years; and, in all cases, the house in which such illegal gaming is carried on, or shall be held, shall be responsible for the fines imposed on persons for such illegal gaming within the same.³⁴

³¹ § 2, act 19 March, 1835, p. 134.

³² This act would seem to have been originally written in french, the words "*banking house or banking game*," being intended as a translation of the french text "*maison ou banque de jeu*."

³³ An act of 14 March, 1836, § 1, p. 158, provides, that the fines imposed by this and the succeeding article, "shall, when collected, be paid one half to the informer, and the other half to the use of the charity hospital of New Orleans."

Section 3 of the act of 14 March, 1836, p. 158, provides, that in all prosecutions which may take place under its provisions, or under the act of 19 March, 1835, "the informer, who may be entitled to a portion of any of the penalties or forfeitures prescribed by either of the said acts, shall not, on that account, be incompetent [as a] witness in any such prosecution, but the testimony of such witness shall be left, with other testimony and circumstances, to be weighed by the jury empannelled to try such prosecution."

The act of 19 March, 1835, further provides, p. 135—

Section 7. That in all cases where conviction has taken place under this law, where the parties convicted are unable to pay the fine imposed, it shall be the duty of the attorney for the state, in the respective districts, to institute process against the owner of the house, before any court of competent jurisdiction, for the recovery of the same: provided, that in no case shall any other property be liable for any judgment obtained, excepting the premises in which the gaming prohibited by this law shall have taken place.

³⁴ See note 38, *post*. Section 25 of the act of 20 February, 1817, relative to the voluntary surrender of property, 2 D. 431, provides, that "all those whose losses shall have been occasioned by gambling, dissipation, or debauch, shall also be deprived of the benefit of this act."

ART. CLVI.³⁵ The owner of the house in which a banking game or games shall be played, shall be deemed and held guilty of aiding and assisting in keeping and playing such game or games, and shall, on conviction thereof, be fined not less than one thousand dollars, or more than five thousand dollars for the first offence, and on conviction a second time, shall be fined not less than five thousand dollars, nor more than ten thousand dollars, and be imprisoned not less than one year, nor more than five years, at the discretion of the court.³⁶

ART. CLVII.³⁷ If any person holding an office of honor, trust, or profit, under the laws of this state, shall be found guilty of keeping a gaming house, or playing or betting against any banking game, he shall be deemed and held guilty of a high misdemeanor, and incapable of holding any office in this state.³⁸

³⁵ § 3, act 19 March, 1835, p. 134.

³⁶ See note 33 *ante*, and note 38, *infra*.

³⁷ § 5, act 19 March, 1835, p. 135.

³⁸ The act of 19 March, 1835, provides, p. 134—

Section 4. That it shall be lawful for any public officer or officers, private person or persons, who shall discover a gaming house, or banking game or games, kept or played contrary to the true intent or meaning of this act, to arrest, and take into their custody the person or persons so keeping or playing the same, or aiding or assisting therein or thereat, together with all the tables, money, representative of money, implements, and other paraphernalia of such gaming house or banking game, and which may be used in the keeping of such banking house, or in playing such banking game or games, and take, or cause the same to be taken before any officer of the place holding a commission of the peace, whose duty it shall be to take [their declarations] touching and concerning the keeping of such gaming house, or playing at such banking game or games, and the arrest of the person or persons keeping the same, or playing thereat, their aiders, or assistants, and the seizure of such banks, the money therein, and the implements and paraphernalia thereof, (the captors or seizers hereby being declared competent witnesses); and if, upon a hearing of the case, he shall deem that the law has been violated, either by keeping a gaming house, or aiding or assisting therein, or by playing at any banking game, or aiding or assisting therein, such offender or offenders shall be committed for trial before the court of competent jurisdiction of the place; and it

ART. CLVIII.³⁹ All persons engaged in gambling, where no current money is actually exhibited or employed, but where

shall further be the duty of the officer so committing such offender or offenders, to take an inventory of all such money, or the representative thereof, tables, or other implements or paraphernalia of such gaming house or banking games, that may be seized and brought before him, all of which shall, on conviction, be forfeited, one half of which shall be for the use of the informer, and the other half for the use of the prosecuting attorney.

This act further provides—

Section 8. That it is hereby made the imperative duty of the attorney-general, and the several district attorneys, and all officers, conservators of the peace in this state, to use their best efforts in endeavoring to enforce the provisions of this act; and upon refusal or neglect to enforce the same, when duly informed of the contravention of its provisions, such officer shall, for such neglect, or refusal, be liable to impeachment and removal from office.

This act was intended, apparently, to repeal the laws then in force on the subject of gaming, though it contains no express clause to that effect. Consequently, such parts only of the previous laws as are directly inconsistent with its provisions, are annulled. The offence of resisting an officer under the circumstances mentioned in the second and third sections of the act of 25 March, 1831, p. 118, would seem to be still punishable under that act. These sections are subjoined :

Section 2. That whenever the mayor, or president of the trustees or selectmen of any incorporated town, shall receive information, on oath, that a gaming bank is open in any house or place within his jurisdiction, he shall be, and he is hereby authorized and required, to enter at any time, either of the day or night, into said house or place, and to apprehend the keeper of said gaming bank and his assistants, and also the keeper of said house or place in which said bank has been opened, and to seize any money, or representative thereof, or other property he may find in said bank, or staked thereat, or to send his authorized agents to enter and to make the above mentioned apprehension and seizure. The parish judges or justices of the peace, are also and hereby invested with, and required to exert a similar authority, to be exercised in every part of their respective parishes, except within the incorporated towns therein.

Section 3. That every person whose arrest is authorized by the preceding section of this act, who shall make resistance to the aforesaid officers or their agents, and, also, every person who shall assist in making such resistance, upon being convicted thereof, before any competent court, upon the testimony of one or more credible witnesses, shall be condemned to pay a fine [not exceeding one thousand dollars, and not less than five hundred dollars; one fourth of which the prosecuting attorney shall be entitled to receive, and the remainder shall go into the treasury of the town or parish, as the case may be, within the limits of which the offence may have been committed; of which remainder, so paid, one third shall be for the use of the informer, if there be one, if

in lieu of such current money, pieces of bone, or any other material, or substance, being the representative of money, in virtue of any express or tacit understanding among the parties engaged in gambling, the house in which any banking game may be so kept, and the persons aiding in keeping such house, or such game, and all persons engaged in playing or betting for or against such game, shall be deemed and taken to be within the prohibitions of [articles CLV, CLVI, and CLVII]; and the house in which such gaming may take place, and all the persons so engaged in the same, shall be liable to all the responsibilities, and subject to all the penalties, forfeitures, and punishment prescribed in the [said articles], in the same manner, in all respects, as if the said game or games had been carried on with or for current money.⁴⁰

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ART. CLIX.⁴¹ Any person or persons who shall, either directly or indirectly, bet, stake, or hazard any money, or other property, or consideration upon any election of this state, or any balloting for any member of the legislature, or for any other officer of this state or of the United States, shall be liable to prosecution, by indictment or information, in any court of competent jurisdiction, and, on conviction, shall be

he shall demand the same] ; and if the fine herein imposed shall not be paid, [the person so convicted] shall suffer an imprisonment of not more than six months, and not less than one month, at the discretion of the court.

This act further provides :—

Section 4. That no person shall, in any case arising under this act, be rejected as an incompetent witness, in consequence of any interest he may have, either in the confiscation of money or its representative, or other property seized, or in the fines to be imposed for the offences therein mentioned.

Section 5. That if any magistrate or other officer whose duty it is to carry into effect the provisions of this act, shall, upon request being made, neglect, or refuse to perform or discharge said duties, he shall, on conviction thereof, before any court of competent jurisdiction, be fined, not less than three hundred, or more than six hundred dollars, and shall, moreover, be liable to be deprived of his office.

³⁹ § 2, act 14 March, 1836, p. 158.

⁴⁰ See note 33 *ante*.

⁴¹ § 1, act 16 March, 1839, p. 90.

fined in a sum not less than the amount of money or the value of the property bet, staked, or hazarded, nor more than double such amount.⁴²

ART. CLX.⁴³ Every person who shall set up, or promote any lottery, not authorized by law, for money, or shall dispose of any property of value, real or personal, by way of lottery, or shall set up any such property to be disposed of by way of lottery, and every person who shall aid, either by printing or writing, or shall in any way be concerned in the setting up, promoting, managing, or drawing of any such lottery, or who shall, in any house, shop, or building owned or occupied by him, or under his control, knowingly permit the setting up, managing, or drawing of any such lottery, or the sale of any lottery ticket, or share of a ticket, or any other writing, certificate, bill, token, or other device purporting or intended to entitle the holder, bearer, or any other person to any prize, or to any share of, or interest in any prize, to be drawn in a lottery, shall, for every such offence, be punished by a fine of not less than one thousand dollars, and not more than ten

⁴² The remaining sections of this act provide—

Section 2. That all fines imposed under this act, when collected by the proper officer of the parish in which the conviction shall have been obtained, shall by him be paid over to the treasurer of the common school fund of such parish, which shall be used and appropriated by the trustees of said fund, in the same manner as are used the appropriations made by the state for public education in the several parishes, under the laws providing therefor.

Section 3. That it shall be and it is hereby made the duty of the attorney general of the state, and of the several district attorneys, to prosecute all offences against this act, and report, on the first Monday of January in each year, to the trustees of the common school fund, in the several parishes in their respective districts, the names of all persons who shall have been convicted under this law during the preceding year, together with the amount of the fine imposed upon each.

Section 4. That it shall be and it is hereby made the duty of the several district judges, and of grand juries in the several parishes in this state, to give this act especially in charge at each and every term of their respective courts.

⁴³ § 1, act 17 Feb. 1841, p. 22.

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thousand dollars, and by imprisonment in the parish jail not less than three months, nor more than one year.⁴⁴

ART. CLXI.⁴⁵ Every person who shall sell, either for himself or for any other person, or shall offer for sale, or shall have in his possession with intent to sell, or to offer for sale, or to exchange, or negotiate, or shall in any wise aid or assist in the selling, negotiating, or disposing of a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token, or other device as is mentioned in the preceding [article], shall be punished for every such offence by a fine not exceeding five thousand dollars.⁴⁶

ART. CLXII.⁴⁷ Every person who shall advertise any

⁴⁴ This act further provides, p. 24—

Section 5. That the fines specified in the first, second, and third sections of this act, shall, when collected, be paid one half to the informer and the other half to the use of the charity hospital of New Orleans; and that, in all prosecutions under this act, the informer shall be a competent witness.

Section 6. That it shall be the duty of the presiding judge of every court of criminal jurisdiction in this state, specially to charge every grand jury to inquire into all violations of the laws against lotteries, and against the unlawful selling of tickets in lotteries.

Section 7. That the attorney general, and the several district attorneys, who may prosecute under the provisions of this act, shall be entitled to retain out of any amount recovered by them under the provisions of this act, twenty per cent as a compensation for their services.

An act of the 1st April, 1833, p. 136, had provided—

“That the privilege of drawing lotteries, heretofore granted by different acts of the legislature, shall expire on the first day of January next; and that any person who shall sell or otherwise dispose of any lottery ticket, in this state, after said day, or shall draw any lottery therein, after that day, shall, on conviction, be subject to a fine of not less than one thousand dollars, and not more than five thousand dollars, and be imprisoned not less than three months, nor more than one year.”

The last clause of this act, and the act of 12 March, 1838, p. 116, are virtually repealed by the act of 17 February, 1841, arts. CLX—II, in the text.

⁴⁵ § 2, act 17 February, 1841, p. 23.

⁴⁶ See note 44, *supra*.

⁴⁷ § 3, act 17 February, 1841, p. 23.

lottery ticket, or any share in any such ticket, for sale, either by himself or by another person, or who shall set up, or exhibit, or shall devise or make, for the purpose of being set up or exhibited, any sign, symbol, or any emblematic or other representation of a lottery, or of the drawing thereof, in any way indicating where a lottery ticket or a share thereof, or any such writing, certificate, bill, token, or other device before mentioned, may be purchased or obtained, or shall in any way invite or entice, or attempt to invite or entice any other person to purchase or receive the same, shall be punished for every such offence, act, or attempt, by a fine not less than one hundred dollars and not more than five hundred dollars.⁴⁸

ART. CLXIII.⁴⁹ Every grant, bargain, sale, conveyance, or transfer of any real estate or of any personal property, which shall hereafter be made in pursuance of any lottery not authorized by the laws of this state, or for the purpose of aiding or assisting in such lottery, are hereby declared void and of no effect; and all sums of money, and every other valuable thing drawn as a prize, or as a share of a prize in any lottery by any person, contrary to the provisions of [articles CLX, CLXI, CLXII], shall be forfeited to the use of the state of Louisiana, and may be recovered by an information to be filed, or by a civil action to be brought by the attorney general, or any district attorney, in the name and in behalf of the state.⁵⁰

ART. CLXIV.⁵¹ All persons [who], being able to work, and having neither profession nor trade, nor any dwelling place, nor any property wherewith to maintain themselves, shall live idle without following some honest occupation to procure themselves the means of subsistence; those who frequent grog shops, gaming houses, and other disorderly places, and are

⁴⁸ See note 44, *ante*.

⁴⁹ § 4, act 17 February, 1841, p. 23.

⁵⁰ See note 44, *ante*.

⁵¹ § 1, act 7 June, 1806, 2 D. 508.

not able to show what resources they possess to subsist upon, nor to produce credible testimony of their good conduct and morals; and also those who beg in the parishes where they dwell, without permission to that effect,⁵² shall be deemed idle and disorderly persons; and such as will be in any of the above cases, shall, upon conviction, be condemned to give security for their good behavior during twelve months, to the satisfaction of the justice of the peace before whom they shall be produced, or denounced, which security shall be of such sum as the said justice will deem proper to fix; and in case of refusal, or impossibility on their part to give the said security, the said justice of the peace shall, at discretion, condemn them to be committed to the house of correction, to be there kept to hard labor until they give the said security, or for a time not exceeding one month.⁵³

⁵² This act provides, p. 511—

Section 11. No individual shall be suffered to beg within the extent of the parish where he dwells, without an express permission, signed by two justices of the peace of the parish, and granted upon the certificate of two creditable housekeepers, testifying to the good conduct and morals of such individual, and that on account of his age or his infirmities, he is disabled from working; and the said permission shall not be extended beyond the limits of the said parish, otherwise the beggar shall be deemed a vagabond and treated as such.

⁵³ The act of 16 March, 1818, 2 D. 515, supplementary to the act in the text, provides—

Section 8. In and for the [parish—see note 19, *ante*,] of Orleans, the district court [now the criminal court of the first district, see § 1, act of 3 March, 1819, 1 D. 333, art. CCCLVIII], shall be vested with all and singular the powers and jurisdiction which, by the act to which this is a supplement, were vested in the justices of the peace and mayor of New Orleans, and it shall be the duty of the attorney general of the state in said [parish], to prosecute, by information, before said court, every person or persons coming under or within any of the provisions of said act: provided however, that nothing in this section contained shall be so construed as to prevent the sectional justices of the peace [now the presiding and associate judges of the city court, § 27, act of 19 February, 1825, 1 D. 352, see book 2, ch. 2, note 320, *post*], and mayor of the city of New Orleans, from arresting or causing to be arrested, any vagrant, or vagrants, or taking any preparatory measure, which they may deem advisable, to bring said vagrant or vagrants to trial.

An act of 5 March, 1841, p. 46, “to establish work houses and houses of

ART. CLXV.⁵⁴ All those who shall be found wandering abroad at night, or who lodge and sleep in grog shops or other

refuge by the several municipalities of the city of New Orleans, and for other purposes," provides—

Section 1. That the council of each municipality of the city of New Orleans be, and they are hereby authorized to establish, within their respective limits, a work house or prison, and enact the requisite ordinances for the government of the same, in which shall be confined and employed all persons legally committed by any magistrate authorized to commit vagrants. They shall moreover be, and they are hereby authorized to establish, within their respective limits, a house of refuge, for the detention of juvenile offenders, and there to employ them in such way as to the council may appear proper.

Section 2. That as soon as any of the municipalities shall erect suitable work houses, as herein before provided, the council of said municipality in which such work house or prison [may] be established, shall be vested with all the powers now exercised by the police jury within the limits of such municipality, as regards said workhouses; and the parish treasury shall pay, on the warrant of the mayor of the city of New Orleans, to the municipalities in which said work house or work houses are established, thirty seven and a half cents for each of the persons detained in said work house or work houses, for every day during which said persons are detained or imprisoned.

Section 3. That the judge of the criminal court be authorized and empowered to sentence all persons under the age of fifteen years, convicted of any crime, excepting for capital offences, committed within either municipality where a house of refuge is established, to be confined within said house of refuge.

Section 4. That all persons being able to work, and having neither profession, nor trade, nor any dwelling place, nor any visible property wherewith to maintain themselves, shall live idle; those who habitually frequent grog shops or gaming houses, or other disorderly places, or, found wandering about at an unseasonable hour of the night, who are unable to show what resources they possess, or unable to produce creditable testimony of their good conduct and morals; or those who lodge in out-houses, market places, sheds, or barns, or in the open air, and who shall not be able to give some account of themselves and their occupation, nor be avowed by some credible person; all persons apprehended with any picklock or other instrument with probable intention feloniously to break and enter any dwelling house or other house, or with any offensive weapon with probable intent feloniously to assault any person, or who shall be found in any dwelling house, out-house, store, yard, or garden with probable intent to steal, or who shall give a false account of themselves after warning of the consequences, shall be deemed vagrants.

Section 5. That any person charged with any of the aforesaid offences shall, upon conviction, before the mayor, or recorder, or any alderman of any of the municipalities of New Orleans, be condemned to give security for their good

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suspicious places, in out houses, or in the open air, and who shall not be able to give some account of themselves and their

behavior, in such sum, and for such time as to the said mayor, recorder, or alderman, may appear reasonable ; and in case of refusal or inability to furnish the security required, said mayor, recorder, or alderman shall thereupon be authorized to commit them to the parish jail in the city of New Orleans, or to the work house or house of refuge aforesaid, if established by either of the municipalities in which such person may have been arrested, therein to be kept at hard labor until they furnish the security required, or for a time not exceeding thirty days.

Section 6. That any person who shall have been convicted [of] any of the offences mentioned in this act, shall, upon a second conviction under the same, be deemed an incorrigible vagrant, and shall be condemned by the mayor, recorder, or alderman to give security for their good behavior, in such sum and for such time, as to the mayor, recorder, or alderman may appear reasonable ; and in case of refusal or inability to furnish the security required, said mayor, recorder, or alderman shall thereupon be authorized to condemn them to be committed to the parish jail, work house, or house of refuge aforesaid, there to be kept at hard labor until the security required be furnished, or for a time not exceeding one year : provided, that nothing herein contained may be construed to deprive any person of the trial by jury when it may be prayed for.

Section 7. That in any case where a person committed under this act shall claim a trial by jury, it shall be lawful for the criminal court of the first district to take cognizance of the same, and to afford a trial as provided by law for other criminal offences ; but nothing in this act shall be construed, as meaning that any such person shall be released in the meantime from commitment in the work house, prison, or house of refuge aforesaid, until acquitted by the jury, or until the expiration of the term of commitment.

Section 8. That in all cases where any person may be sentenced to punishment under this act, the mayor, or either of the recorders shall have power to discharge the person so sentenced from punishment in case of conviction, on such person giving bond with one or more good and sufficient sureties, in a sum to be fixed by the mayor, or either of the recorders aforesaid, according to the nature of the case, conditioned that the person so sentenced will depart, and remain out of the state until he shall have procured the means of subsistence ; provided however, that such sureties shall only be responsible in case such person shall not depart out of the state within the time specified in said bond ; and in case the person so convicted and sentenced as aforesaid, shall be found at large within the state after the time mentioned in said bond for departing the state, such person shall be liable to his former sentence, and more over to one year's imprisonment at hard labor in addition thereto.

Section 9. That all the provisions of this act shall apply to the parish of Jefferson ; that the powers vested thereby, in the mayor, recorder, and alder-

occupations, nor be avowed by some person ; all persons apprehended with any picklock or other instrument with the probable intention feloniously to break and enter any dwelling house, or with any offensive weapon, with probable intent feloniously to assault any person ; or who shall be found in any dwelling house, out house, store, yard, or garden, with probable intent to steal, shall be reputed vagabonds and suspicious persons ; and those who shall be in any of the above cases, shall, upon conviction, be punished with imprisonment in the house of correction, and with hard labor, or with either, at the discretion of any justice of the peace, according to the gravity of the case, for a time not exceeding three months.

ART. CLXVI.⁵⁵ All persons who, being in any of the cases mentioned in any of the two preceding [articles], or who shall give a false account of themselves, after warning of the consequences, or who shall commit a second offence, shall be deemed incorrigible vagabonds, and shall, upon conviction of any of the aforesaid acts, be condemned, at the discretion of competent judges, and according to the gravity of the case, to imprisonment in the house of correction and to hard labor, for a time not exceeding three years, nor less than six months :

men, are hereby conferred upon the parish judge of the parish of Jefferson, the judge of the city court of Lafayette, the president of the board of council of said city, and the several justices of the peace of the parish of Jefferson ; provided however, that nothing herein shall be construed so as to bind the police jury of the parish of Jefferson, or the board of council of the city of Lafayette, to construct work houses, and that said bodies shall have a right to use, until they have constructed such work houses, either their parish jail, or one of the work houses of the parish of Orleans, on paying their pro rata proportion of the expense incurred by the reception of vagrants sent from the said parish of Jefferson, to be determined by the council of the municipality to whose work house they shall have been sent.

⁵⁴ § 2, act 7 June, 1806, 2 D. 508. See § 8, act of 16 March, 1818, &c. in last note, giving to the criminal court of the first district, so far as the parish of Orleans is concerned, the powers conferred by this section on justices of the peace.

⁵⁵ § 3, act 7 June, 1806, 2 D. 509.

provided, that nothing herein contained may be construed to deprive any persons of the trial by jury, when it may be prayed for.

ART. CLXVII.⁵⁶ Women convicted to be vagabonds or suspicious persons, shall be liable, as men, to imprisonment.

ART. CLXVIII.⁵⁷ Persons harboring vagrants or suspicious persons, knowing them to be such, shall, upon conviction, be fined in a sum not exceeding five hundred dollars, nor less than one hundred dollars, and be condemned to pay the whole expense accruing to the [state].⁵⁸

ART. CLXIX.⁵⁹ In all cases where any person may be sentenced to any punishment under [the act of 7 June, 1806, concerning vagabonds and suspicious persons], the [district] judge of each [district], save [in] the [parish] of Orleans [and the other parishes composing the first judicial district], where such person shall have been convicted, the mayor of the city of New Orleans in case of conviction had in the city of New Orleans, [and the judge of the criminal court of the first judicial district in convictions in the other parishes composing the first judicial district],⁶⁰ shall have power to discharge

⁵⁶ § 9, act of 7 June, 1806, 2 D. 511.

⁵⁷ § 8, *ibid.*

⁵⁸ A subsequent section of this act provides, p. 511—

Section 10. All fines accruing by virtue of the present act, shall be recovered at the expense of the [parish—see note 19, *ante*,] before any justice of the peace or the judge of the county, [now district judge, see note 60, *post.*] according to the amount of such fines, and the order of competency between the said justices.

⁵⁹ § 12, *ibid.*, 2 D. 511.

⁶⁰ The article in the text, as originally passed, reads, "the judge of each county, save the county of Orleans, where such person shall have been convicted, and the mayor of the city of Orleans, in case of conviction had in the city of New Orleans, shall have power," &c. The words between brackets mark the changes introduced by § 10 of the act of 31 March, 1807, p. 14, abolishing the county courts; by § 15 & 16 of the act of 10 February, 1813,

the person so sentenced from such punishment, on such person giving bond, with one or more good and sufficient sureties, in a sum to be fixed by the said judge or mayor, according to the nature of the case, conditioned that the person so sentenced will depart and forever remain out of the [state]: provided however, that such sureties shall only be responsible in case such person shall not depart out of the [state] within the time specified in said bond; and in case the person so convicted and sentenced, as aforesaid, shall be found at large within the [state], after the time mentioned in said bond for departing the [state], such person shall be liable to his former sentence, and moreover to one year's imprisonment at hard labor in addition thereto.

ART. CLXX.⁵¹ Whenever any person shall, on conviction, be sentenced under [the act of 7 June, 1806, concerning vagabonds and suspicious persons] to imprisonment at hard labor, it shall be the duty of the sheriff of the [parish] in which such conviction shall have been had, to carry such sentence into execution; provided however, that such sheriff shall have power, by and with the advice and consent of a justice of the peace of said [parish], to bind out such person so sentenced as aforesaid, to any householder in the [parish], to serve at hard labor during the term of time for which he shall have been sentenced to imprisonment; provided moreover, that said sheriff shall take sufficient security, to be approved

1 D. 294, arts. CCCXLVII—VIII, investing the district courts with the powers of the superior courts, and with criminal jurisdiction over free persons in all cases; and by the acts creating the criminal court of the first district, art. CCCLVIII, *et seq.*

See § 8 & 9 of the act of 5 March, 1841, note 53, *ante*, modifying the article in the text, as to the city of New Orleans and the parish of Jefferson.

⁵¹ § 13, act 7 June, 1806, 2 D. 512. The word *parish*, between brackets, is substituted in the text, for *county* in the act as originally passed. Sheriffs of each parish have been substituted for sheriffs of the county, see § 1, act of 25 March, 1813, art. CCCXXXI; and the division of the state into parishes abolished, except for certain special purposes, the former division into counties. See note 19, *ante*.

of by a justice of the peace of the [parish], for the good behavior of such convict, and for the payment of the costs and fines to which such convict may be liable, which shall be recovered by the sheriff, and accounted for as [by the said act] provided. ⁶²The power given to the sheriff [by this article], shall be exercised in the city of New Orleans, only by and with the consent of the mayor of the said city.

ART. CLXXI.⁶³ Every master of any ship or vessel arriving from a foreign country, or from any other of the United States, who shall enter his vessel at the custom house in the city of New Orleans, shall, within twenty-four hours after such entry, make a report in writing, on oath, to the mayor, or in case of his sickness or absence, to [⁶⁴one of the recorders] of the said city, of the name, age, occupation, and means of subsistence of every person who shall have been brought as a passenger in such ship or vessel on her last voyage, upon pain of forfeiting for every neglect or omission to make such report; the sum of one hundred dollars for every alien, and the sum of fifty dollars for every other person, neglected to be so reported as aforesaid.⁶⁵

⁶² § 14, act of 7 June, 1806, 2 D. 512.

⁶³ § 1, act 16 March, 1818, 2 D. 512.

⁶⁴ The act of 8 March, 1836, p. 28, dividing the city of New Orleans into three municipalities, provides for the appointment of a recorder for each of the said divisions, with the same powers and duties within their respective municipalities, as the recorder previously exercised over the whole city.

⁶⁵ A subsequent section of the act of 16 March, 1818, provides, 2 D. 514—

Section 6. All and singular the said penalties and forfeitures, arising in the said city and suburbs, shall and may be sued for and recovered, with full costs of suit, by action of debt in the district court of the first judicial district [now the criminal court of the first district, see § 20, act of 12 March, 1818, 1 D. 333, and the acts establishing said court, art. CCCLVIII, *et seq.*], in the name of the state, and when recovered shall be applied towards the support of the charity hospital; and the defendant in every such suit, shall be held to a special bail; and upon every such trial for any penalty or forfeiture supposed to be incurred by the landing of any such alien passenger as aforesaid, the same landing shall be presumed, unless the defendant shall prove that the said per-

ART. CLXXII.⁶⁶ It shall be lawful for the said mayor, or in case of his sickness or absence, for the said recorder, to require every such master of such ship or vessel to be bound, with two sufficient sureties, to the state of Louisiana, in such sum as the said mayor or recorder may think proper, not exceeding three hundred dollars for each passenger, in case such passenger shall at any time within two years thereafter become a vagrant, according to the meaning and definition contained in [article CLXIV], or be found guilty of any crime, misdemeanor, or breach of the peace; and if any such person so brought as aforesaid, and not being a citizen of the United States, shall be permitted or suffered to land within the said city, or in any other port within the state, from any such ship or vessel, before such bond shall have been given, and without a permission in writing from the said mayor or recorder, the master or commander of such ship or vessel shall be subject to the penalty of two hundred and fifty dollars for every person so suffered or permitted to land as aforesaid.⁶⁷

ART. CLXXIII.⁶⁸ Whenever it shall satisfactorily appear to the said mayor or recorder, from any substantial document, other than a common passport, duly authenticated by the American consul, residing in the port of departure of any said ship or vessel, that any alien passenger on said ship or vessel is of good moral character, and an active and useful mechanic, it shall be lawful for the said mayor or recorder to dispense the master or commander of the ship or vessel in which such an alien, being the bearer of such authenticated document, may have been a passenger, with the bond and securities mentioned in [the last article].

son was taken or sent to some foreign country without having been suffered to land as aforesaid.

⁶⁶ § 2, act 16 March, 1818, 2 D. p. 513.

⁶⁷ See note 65, *ante*.

⁶⁸ § 7, act 16 March, 1818, 2 D. 514.

ART. CLXXIV.⁶⁹ Before granting the written permission [mentioned in art. CLXXII], it shall be the duty of the said mayor, or recorder, to cause every alien, who may have been a passenger in any such ship or vessel, to be brought before him, to examine every such alien upon oath, as to his name and surname, native country, last place of residence, occupation, trade, and means of subsistence, and also to take the description of the person of said alien, as accurately as possible, so as to be able to identify him, in case of necessity, at any time within the two years thereafter ; which examination and description shall be taken down in writing, on a book kept for that purpose, and signed by the party, upon pain for every alien who shall refuse to submit to these formalities, of forfeiting the sum of two hundred dollars, and of being re-transported out of this state in the same ship or vessel.⁷⁰

ART. CLXXV.⁷¹ If any person who may have been a passenger in any such ship or vessel, and not being a citizen of the United States, shall be suffered to land from any such ship or vessel, at any place whatever, with intent to proceed to the said city, otherwise than in the said ship or vessel, the master or commander thereof shall be liable to the like penalty of two hundred and fifty dollars, for every such person so suffered or permitted to land.⁷²

ART. CLXXVI.⁷³ If any householder in the city and suburbs of New Orleans, shall knowingly entertain in his house or family any alien so landed as aforesaid, and shall not report such alien to the said mayor or recorder, within twenty-four hours after such entertainment commenced, he shall forfeit and pay the sum of one hundred dollars for every such alien so entertained.⁷⁴

⁶⁹ § 3, act 16 March, 1818, 2 D. 513.

⁷⁰ See note 65, *ante*.

⁷¹ § 4, act 16 March, 1818, 2 D. 514.

⁷² See note 65, *ante*.

⁷³ § 5, act 16 March, 1818, 2 D. 514.

⁷⁴ See note 65, *ante*.

ART. CLXXVII.⁷⁵ Every person who shall practice in the state of Louisiana the profession of a physician, an apothecary, or that of midwifery, without a special license granted by the medical board, shall be liable to a fine that shall not exceed the sum of one hundred dollars for the first offence, and [for] the second offence such person shall be fined a sum that shall not be less than two hundred and not more than five hundred dollars, recoverable by said medical board, before any court of competent jurisdiction in this state; and said fines shall be paid over to the treasurer of the charity hospital.⁷⁶

ART. CLXXVIII.⁷⁷ Whenever any apprentice or bound servant shall abscond, or absent him or herself from the ser-

⁷⁵ § 5, act 27 March, 1840, p. 101.

⁷⁶ This act virtually repealed the 4th section of the act of 16 March, 1816, 2 D. 235. By the 4th section of the act of 1816, practising as a physician or apothecary "in contravention of the law" was punished, for the first offence, by a fine not exceeding one hundred dollars, and for a second offence by a fine not exceeding two hundred dollars, and imprisonment not exceeding one year. A proviso annexed to this section, declared, "that nothing in this section contained shall be made or construed to apply to any inhabitant or planter in the country, who, on the application of any of his sick neighbors, should procure them some alleviation, or administer them any kind of physic."

The act of 1840 must be construed in conformity to this expression of the intention of the legislature.

The act of 1 March, 1820, 2 D. 238, provides—

Section 4. Whenever it shall, by any means, come within the knowledge of the president of said [medical] board [for the eastern district of the state], that any person has practised, or pretended to practise medicine, or the profession of apothecary, within the county of Orleans, without a license, it shall be the duty of said president immediately to give information to the attorney-general, who shall be bound to prosecute such person, for the amount of the fines and forfeitures of the law.

Section 5. Nothing in this act shall be so construed as to prevent any person, residing out of the county of New Orleans, from selling medicine which shall have been purchased from any legal apothecary, and which shall have been plainly labelled by said apothecary.

⁷⁷ § 5, act 21 May, 1806, 1 D. 23. This act reads, as originally passed, "to the satisfaction of any mayor or judge of any county court," &c. The 10th section of the act of 31 March, 1807, p. 14, provides that "in lieu" of the judges of the county courts, there shall be established *parish* judges, with

vice of his or her master, without leave, upon due proof being made to the satisfaction of any mayor or judge of any [parish] court in this [state], the said mayor or judge shall have full power to compel the party thus absconding to serve his or her master or mistress, two days for every one that he or she has absented him or herself, or pay such damages as said mayor or judge may think equitable and just, to his or her said master or mistress.

ART. CLXXIX.⁷⁸ Every act of emancipation made contrary to the provisions of the [act of 9 March, 1807, regulating the emancipation of slaves], shall be null and void; and the proprietor who shall have consented thereto, and the public officer who shall have passed said instrument, shall both, on conviction, forfeit the sum of one hundred dollars, the half of which shall be to the benefit of the informer, and the other half to the treasury of the [state].⁷⁹

the powers defined in that act. These last have succeeded to the authority originally conferred on the county judges, by the article in the text.

See art. CCXLIV for powers of parish judge, where apprentice or bound servant absconds or neglects his duty.

⁷⁸ § 4, act of 9 March, 1807, 1 D. 455.

⁷⁹ The article in the text provides that the proprietor and public officer "shall both, on conviction, forfeit, &c.;" the french text reads—"seront, sur conviction, condamnés *chacun*," &c.

The act of the 16 March, 1830, p. 92. provides—

Section 10. That any person, or persons who shall emancipate his, her, or their slave or slaves, shall enter into bond, with at least one good and sufficient security, in the sum of one thousand dollars, for each and every slave intended to be emancipated; conditioned, that the slave or slaves emancipated shall permanently depart from the state, within one month from and after the passage of the act of emancipation; and in default of the slave so emancipated, refusing or neglecting to depart from the state, within the time prescribed by this section, the said bond shall become forfeited, one half to the person denouncing, and the other half to the state; the penalty of said bond to be recovered, by motion, before any court of competent jurisdiction: provided, that nothing contained in this section, shall be held to extend to any person who shall be emancipated in consequence of meritorious services rendered to the state, or to his, or her master or mistress, or any member of the family of the master or mistress in the preservation of their lives.

Section 11. That in the event of the forfeiture of the bond mentioned in

ART. CLXXX.⁸⁰ Free people of color ought never to insult or strike white people, nor presume to conceive themselves equal to the white; but on the contrary, they ought to yield to them in every occasion, and never speak or answer to them but with respect, under the penalty of imprisonment according to the nature of the offence.

ART. CLXXXI.⁸¹ As slaves may declare themselves free, free colored persons who carry arms, are expressly directed to carry with them a certificate of a justice of the peace, attesting their freedom, for want of which [the said arms] shall be subject to [be seized and taken away by any person].⁸²

the preceding section, the slave emancipated shall be subject to a special privilege for the payment of the same.

An act of 25 March, 1831, amending the act of 16 March, 1830, provides, p. 98—

Section 2. When a slaveholder shall have obtained the consent of the police jury of the parish in which he resides, to emancipate a slave for long, faithful, or important services, rendered to himself or family, such owner shall be dispensed from furnishing the bond required by the tenth section of the act to which this is an amendment, and the slave so emancipated shall not be compelled to leave the state: provided, however, that the consent of the police jury above mentioned, shall be given by the three fourths of the members thereof, at two successive meetings, and who shall set forth in writing, their motives for granting the same.

⁸⁰ § 40, part 1, act 7 June, 1806, 1 D. 112.

⁸¹ § 21, *ibid.*, p. 104.

⁸² This act reads in the original, "shall be subject to the penalty of the nineteenth section of this act." The 19th section provides, 1 D. 103, that any person "may seize and carry away such fire arms, or other offensive weapons; but before the person, or persons who shall so seize such fire arms can possess the same of right, he, she, or they shall go, within forty-eight hours after the said seizure, before the next justice of the peace, and shall declare, upon oath, the manner in which he, she, or they have seized the said arms; and if the justice of the peace, upon the oath of such person or persons, or upon any other examination or proof, be satisfied that the said fire arms or other offensive weapons have been seized pursuant to the true intent and meaning of this act, the said justice of the peace shall declare, by a certificate under his hand and seal, that the said arms are forfeited, and that they have lawfully become the property of the person or persons who has or have seized the same." &c.

ART. CLXXXII.⁸³ No free negro or mulatto shall emigrate to, or settle in this [state], under the penalty of twenty dollars for every week any such person shall remain in the [state], after the expiration of two weeks; and any free negro or mulatto, who shall refuse or neglect to pay the fine imposed by this [article], or who shall not give such security to any judge or justice of the peace of the parish in which [he] shall be found, for his departure from this [state] within two weeks, as the said judge or justice shall approve of, shall be committed to the jail of the parish, and may be sold therefrom by the judge of the parish, after ten days notice of such sale, for a term sufficient to pay the fines herein imposed, with the costs; and in case that no person should buy such man of color for the space of time above mentioned, he shall then be employed at public works during as many days as he shall have remained in the [state] after the two weeks aforesaid.⁸⁴

ART. CLXXXIII.⁸⁵ All free negroes, mulattoes, or other free persons of color, who have come into this state, since the first day of January, 1825, in violation of [the last article], shall and may be arrested and proceeded against by warrant, before any judge, justice of the peace, or mayor in this state. And upon due proof of the violation of said [article], by any free negro, mulatto, or other person of color, before any judge, justice of the peace, or mayor in this state, it shall be the duty of said judge, justice of the peace, or mayor, to order any free negro, mulatto, or other free person of color, so brought before him, and convicted of having come into this state

⁸³ § 1, act 14 April, 1807, 1 D. 499.

⁸⁴ The 4th section of the act of 16 March, 1830, p. 90, provides—

“That any free negro, mulatto, or other free person of color, having departed from this state, in pursuance of an order to that effect, or in obedience to the command of the act of the territory of Orleans, passed the 14th of April, 1807, or of this act, and who shall return into this state again, all such free negroes, mulattoes, and other free persons of color, shall be liable to be proceeded against, under the provisions of this act.”

⁸⁵ § 1, act 16 March, 1830, p. 90.

since the first day of January, 1825, to depart therefrom within sixty days.⁸⁶

ART. CLXXXIV.⁸⁷ The provisions of the [last article] shall not be construed to extend to any free negro, mulatto, or other free person of color, who may have been a slave in this state, and who shall have, with the consent of his owner, been emancipated in any other state of the Union, and shall have, after such emancipation, returned into this state.

ART. CLXXXV.⁸⁸ No free negro, mulatto, or other free person of color, shall come into this state, under the pain of being ordered to depart therefrom, as provided for in the [article CLXXXIII]: and in disobedience of such order, on pain of incurring the penalties [of] imprisonment enacted in the [next article], except as is [in the last article] provided for.⁸⁹

ART. CLXXXVI.⁹⁰ Any free negro, mulatto, or other free person of color, who having been ordered to depart from

⁸⁶ This act further provides, p. 94—

Section 17. That it shall be the duty of the state printer to publish this act in his paper every six months; and that in all cases it shall be the duty of the attorney general, and the several district attorneys of this state, to prosecute the said free negroes, mulattoes, and other free persons of color, in their respective districts, whenever it shall come within their knowledge that this act, or any part thereof, has been violated, or has not been complied with, or whenever they shall be required to prosecute the said free negroes, mulattoes, or other free persons of color, under this act, by any citizen of this state, under the penalty of being removed from office; and in all prosecutions brought by the attorney general, or the several district attorneys, as herein before prescribed, the said negroes, mulattoes, or other free persons of color, shall be bound to prove that they had come into this state prior to the 1st of January, 1825; and the presumption shall always be, that they have actually come into the same in violation of this act.

See note 79, *ante*.

⁸⁷ § 16, act 16 March, 1830, p. 94.

⁸⁸ § 3, act 16 March, 1830, p. 90.

⁸⁹ See notes 79 & 86, *ante*.

⁹⁰ § 2, act 16 March, 1830, p. 90.

this state, pursuant to the provisions of [article CLXXXIII], shall, after the period assigned for his departure, be found in any parish in this state, all such free negroes, mulattoes, and other free persons of color, found within this state in disobedience of such order of departure and removal therefrom, shall be liable to be prosecuted before any court of competent jurisdiction, or before any judge, justice of the peace, or mayor ; and, upon due conviction of having disobeyed an order of departure, or removal, as provided for in the [said article], all such free negroes, mulattoes and other free persons of color shall, by said court, judge, justice of the peace, or mayor, be sentenced to one year's imprisonment at hard labor ; and if any free negro, mulatto, or other free person of color, ordered to depart from this state, pursuant the provisions of the [said article], shall be convicted of a disobedience to such order, and sentenced to imprisonment as herein prescribed, all such free negroes, mulattoes, or other free persons of color, shall be held and bound to depart from this state in thirty days after the expiration of their imprisonment ; and on failure to depart within said thirty days, all such free negroes, mulattoes, and other free persons of color, on due proof of a failure to depart from the state as herein required, shall, by said court, judge, justice of the peace, or mayor, be sentenced to imprisonment at hard labor for life.⁹¹

ART. CLXXXVII.⁹² All free negroes, mulattoes, and other free persons of color, who shall come into this state as seamen attached to any vessel, or as cook, steward, or in any other capacity, and who shall not depart with said vessel, provided she is destined for an outward voyage, and if not, or is from any circumstance incapable or not destined for departure, shall not depart within thirty days from this state ; all such free negroes, mulattoes, and other free persons of color, so

⁹¹ See notes 79 & 86, *ante*.

⁹² § 5, act 16 March, 1830, p. 90.

coming into this state, and not departing therefrom as contemplated in this [article], shall incur the penalties of [article CLXXXVI], and be proceeded against as directed by [articles CLXXXIII, CLXXXVI.]⁹³

ART. CLXXXVIII.⁹⁴ If any free negro, mulatto, or other free person of color, who is not subject to the provisions of [articles CLXXXII, CLXXXIII, and CLXXXV], shall at any time depart from the United States, all such free negroes, mulattoes, or other free persons, so departing from the United States, shall be prohibited from returning into this state, on pain of being proceeded against, and incurring the penalties of [articles CLXXXIII, CLXXXVI.]⁹⁵

ART. CLXXXIX.⁹⁶ All free negroes, mulattoes, or other persons of color who have not entered this state in violation of the laws, and who are permanent residents and owners of property therein, or who permanently reside therein and exercise a useful trade, and who have always conducted themselves in an orderly and respectful manner, shall not be subject to the provisions of the [last article]; but such persons shall be permitted to depart from the state and to return thereto, as their business may require; provided, however, that this permission shall not extend to such persons above mentioned, who shall go to or return from the West India islands.

ART. CXC.⁹⁷ It shall be the duty of all notaries, or other public officers, not to pass any act wherein any free person of color may be concerned, without inserting after the name and surname of such free person of color, these words, "free man" or "free woman of color;" that it shall be, likewise, the duty

⁹³ See notes 79 & 86, *ante*.

⁹⁴ § 7, act 16 March, 1830, p. 92.

⁹⁵ See notes 79 & 86, *ante*.

⁹⁶ § 1, act 25 March, 1831, p. 98.

⁹⁷ Act 31 March, 1808, 1 D. 499.

of all printers and auctioneers, who give public notices, the object of which is to announce the sale of some property belonging to a free person of color, to comply with said formalities, under the penalty for the delinquent, of paying a fine of one hundred dollars, one half of which shall be to the benefit of the informer, and the other half to the use of the [state.]

ART. CXCI.⁹⁸ No slave shall be imported or brought into this state, who shall have been convicted of the crimes of murder, rape, arson, manslaughter, attempt to murder, burglary, or [of] having raised, or attempted to raise an insurrection among the slaves in any state of the Union or elsewhere; and if any such should be, they shall, on conviction thereof, be seized and sold for cash to the highest bidder, after fifteen days notice of time and place of sale, one half of the purchase money to be applied to the use of the state, and the other half to the informer; and every person who shall import, or bring into this state such slave, knowing that they have been convicted of any of the above mentioned crimes, shall, upon conviction before any court of competent jurisdiction, be fined for each and every such slave in the sum of five hundred dollars, one half to be applied to the use of the state, and the other half to the use of the informer.⁹⁹

ART. CXCII.¹⁰⁰ It shall be unlawful for any person, whether a citizen of this state or not, to introduce for any purpose, or under any pretext whatever, any slave or slaves who shall have been accused of any conspiracy or insurrection, or

⁹⁸ § 1, act 29 January, 1817, 2 D. 385.

⁹⁹ A subsequent section of this act provides, p. 386.

Section 6. In all cases within the meaning of this act, the burden of proof shall be on the person who imports, or brings, or claims the said slaves or free persons; provided, that in all cases the production of the certificate of the clerk of the county from whence they are imported or brought, accompanied with the certificate of the governor of this [by mistake for *the*, the french text reads "*de l'etat*,"] state, shall be received as *prima facie* evidence.

¹⁰⁰ § 13, act 31 January, 1829, p. 48.

who had resided in any county of any state or territory of the United States during the time of any conspiracy or insurrection in such county ; and any person who shall be convicted of having introduced any slave or slaves, accused or resident as aforesaid, shall be fined in a sum not less than one thousand dollars nor more than five thousand dollars, and shall suffer imprisonment for a period not less than one nor more than five years ; provided, that when more than two years shall have elapsed from the time when the said conspiracy or insurrection shall have taken place, the prohibition enacted by the present [article] shall not extend to slaves who may have been residing in the said county at the time when said conspiracy or insurrection took place, and were neither engaged, or accused of having had any agency therein.¹⁰¹

ART. CXCIH.¹⁰² No free negro or colored person who shall have been convicted of any crime, and sentenced to serve a term of years, shall be imported or brought into this state ; and if any such should be brought, they shall be seized and sold to the highest bidder for cash, for the same term of service that they have been condemned to serve from whence

¹⁰¹ This act further provides—

Section 14. That it shall be lawful to prosecute to conviction and punishment, any person accused under the provisions of this act, at any time within three years after the commission of the offence, the limitation of the thirty seventh section of an act for the punishment of crimes and misdemeanors, approved May fourth, eighteen hundred and five [art. DX.], or any other act, or part of any act, to the contrary notwithstanding.

The 4th section of the act of 16 March, 1830, p. 96, provides—

“ That it shall be the duty of the attorney general and the several district attorneys of this state, to prosecute, without delay, in every case in which the provisions of an act entitled, an act relative to the introduction of slaves into this state, and for other purposes, approved January 31st, 1829, shall have been violated, or shall not have been complied with,” under the penalty of being “ liable to be removed from office.” Sections 9, 13, 14, 15, & 16 are the only portions of the act of 1829 not repealed by the act of 24 March, 1831, p. 78. Sections 9 & 14 prescribe nothing, and cannot be violated ; and sections 13, 15, & 16 form articles CXCIH, CXCVII, & CXCVIII.

¹⁰² § 2, act 29 January, 1817, 2 D. 385.

they have been brought, one half of the purchase money to be applied to the use of the state, and the other half to the use of the informer ; and every person who shall import or bring into this state such free negro or colored person, who shall have been condemned as aforesaid, knowing it, shall, upon conviction before any court of competent jurisdiction, be fined in the sum of five hundred dollars for each and every one, one half thereof to be applied to the use of the state, and the other half to the informer.¹⁰³

ART. CXCIV.¹⁰⁴ No free negro or person of color, who shall have been convicted of any crime, in any other part of the United States or elsewhere, shall be allowed to come into this state either as a fugitive from justice, or as an emigrant into this state ; and if any such should be found, he, she, or they shall be seized, and, if convicted before any court of competent jurisdiction, fined and imprisoned at the discretion of the court,¹⁰⁵ or until they enter into bond and security to leave the state, and that they never will return into it again.¹⁰⁶

ART. CXCV.¹⁰⁷ Any captain or master who shall receive on board of his vessel, boat, flat boat, or pirogue, raft, or other water craft, and transport to this state any of the slaves or other persons mentioned [in articles CXCI, CXCIII, and CXCIV], knowing that they were sentenced or convicted as aforesaid, shall be condemned to pay a fine of five hundred dollars, one half for the benefit of the state, and the other half for the benefit of the informer ; and moreover, every vessel, boat, flat boat, or pirogue, raft, or other water craft, on board of which such slaves or other persons shall have been transported, as also the tackle, apparel, and furniture of said vessel, shall be forfeited to this state.¹⁰⁸

¹⁰³ See note 99, *ante*.

¹⁰⁴ § 3, act 29 January, 1817, 2 D. 386.

¹⁰⁵ See note 9, *ante*.

¹⁰⁶ See note 99, *ante*.

¹⁰⁷ § 4, act 29 January, 1817, 2 D. 386.

¹⁰⁸ See note 99, *ante*.

ART. CXCVI.¹⁰⁹ Any person who shall have been convicted of having bought or sold any of the said slaves or other persons, described [in articles CXCI, CXCIII, and CXCVI,] knowing that at the time of sale or purchase the said slaves or said other persons were of the number of slaves or other persons whose introduction is prohibited by [the said articles], shall be condemned to a fine of five hundred dollars, one half for the benefit of the state, and the other half for the benefit of the informer.¹¹⁰

ART. CXCVII.¹¹¹ No slave child, or children, ten years of age, or under, shall be introduced into this state, unaccompanied by his, her, or their mother, if living, under the penalty prescribed in the tenth section of this act;¹¹² and in all trials for a violation of this [article] the burden of proving the age of such child or children, and that his, her, or their mother was dead at the time of introducing them, shall be on the person accused.

ART. CXCVIII.¹¹³ If any person, or persons, shall sell the mother of any slave child or children under the age of ten years, separate from said child or children, or shall, the mother living, sell any slave child or children, of ten years of age, or under, separate from said mother, ¹¹⁴ such person, or persons,

¹⁰⁹ § 5, act 29 January, 1817, 2 D. 386.

¹¹⁰ See note 99 *ante*. This section virtually repeals § 2 of act 23 March, 1810, 1 D. 124.

¹¹¹ § 15, act 31 January, 1829, p. 48.

¹¹² There is no penalty prescribed by the *tenth* section of this act. The word "*tenth*" is a mistake for some other, but the error exists in the original act as preserved in the office of the secretary of state; and there are so many different penalties inflicted by its various sections, as to render it impossible to determine with certainty the one it was the intention of the legislature to refer to. See note 101, *ante*.

¹¹³ § 16, act 31 January, 1829, p. 48.

¹¹⁴ Part of section 6 of same act. The concluding line of § 16 provides, that any offence against its provisions shall be punished with the penalty prescribed by the sixth section of the same act. The forfeiture of the slave, imposed by

on conviction thereof, shall suffer a fine not less than one thousand dollars, nor more than two thousand dollars, and an imprisonment of not less than six months, nor more than one year.

ART. CXCIX.¹¹⁵ No person occupying, or being owner of a plantation, shall be permitted to keep [any] slaves on his plantation without having a white, or free colored man, as manager or overseer, under the penalty of fifty dollars for every month elapsed without complying with the provisions of this [article].

ART. CC.¹¹⁶ Every person being the proprietor of a plantation, or acting for the proprietor of a plantation, on which he employs slaves [in] the cultivation of the soil, shall be bound to have permanently on his plantation, or on the plantation which he oversees, a white person for each and every thirty slaves working on said plantation, to oversee the said slaves, and maintain a good police among them;¹¹⁷ be it well understood, however, that the proprietor, his agent, their sons being above sixteen years of age, and all white persons employed as mechanics, shall be considered as making part of the number of men required by [this article].¹¹⁸ Any planter who shall not comply with the provisions of [this article] shall, on conviction thereof, be condemned to pay a fine not less than one hundred dollars, and not exceeding five hundred dollars, to be recovered on motion of the attorney of the district within which the said offender may reside, one half to the benefit of

the 6th section, is inapplicable to an offender against the 16th, and is not inserted in the text. See note 101, *ante*.

¹¹⁵ § 18, part 2, act 7 June, 1806, 1 D. 118.

¹¹⁶ § 1, act 21 December, 1814, 1 D. 126.

¹¹⁷ This act further provides, 1 D. 126—

Section 2. It shall be the duty of the parish judge at least twice a year, and at such time as he shall think proper, to visit the plantations within his parish on which there are more than thirty slaves, in order to secure the faithful execution of the above section, and [he] shall make use of the declaration annually made by every slaveholder, to ascertain whether the said slaveholders have faithfully complied with the provisions of the said section.

¹¹⁸ § 3, *ibid*.

the informer, and the other half [to] the parish in which the said offender may reside.

ART. CCI.¹¹⁹ Any planter who shall refuse, when required, to give to the [parish] judge a statement of the number of white persons employed by him on his plantation under the provisions of [the last article], shall be considered as an offender against [the same], and shall, on conviction thereof, be condemned to pay the fine imposed by the [said article], which fine shall be recovered and applied in the manner prescribed by [said article].

ART. CCII.¹²⁰ Every owner shall be held to give to his slaves the quantity of provisions hereafter specified, to wit : one barrel of indian corn, or the equivalent thereof in rice, beans, or other grain, and a pint of salt, and to deliver the same to the said slaves in kind, every month, and never in money, under a penalty of a fine of ten dollars for every offence.¹²¹

¹¹⁹ § 4, act 21 December, 1814, 1 D. 127.

¹²⁰ § 2, part 1, act 7 June, 1806, 1 D. 100.

¹²¹ This act further provides, part 1, p. 111—

Section 39. In case any persons of this territory who may be proprietors, or may have the management or government of any slave or slaves, shall refuse or neglect providing the said slave or slaves, at their expense, with clothes, house, and sufficient nourishment, it shall be lawful for any person or persons to lodge a complaint in favor of said slave or slaves, to the justice residing nearest to the place where such slave or slaves live, or are usually employed ; and the justice shall summon the parties, against whom the said complaint shall be made, to appear before him, and shall inquire into, get full information and confirmation thereof, and if the said justice finds the complaint to be well founded and true, and the said person will not exculpate him or herself, or prove their innocence of the charge alleged against them, by their oath, which the said person, so informed against, shall be permitted to take in all cases, where good and positive proofs of the offence are not adduced and brought forward ; in this case the said justice may give such orders for the relief of such slave or slaves as he shall, in his opinion, think fit, and shall impose upon the person or persons who shall make default in the above regulations a fine in a sum not exceeding twenty dollars for each offence, which fine shall be recovered by an order of seizure and sale of the personal property of the offender,

ART. CCIII.¹²³ The slaves who shall not have on the property of their owners, a lot of ground to cultivate on their own account, shall be entitled to receive from said owner, one linen shirt and pantaloons for the summer, and a linen shirt and a woollen great coat and pantaloons for the winter.

ART. CCIV.¹²³ The slaves disabled through old age, sickness, or any other cause, whether their disease be incurable or not, shall be fed and maintained by their owners, in the manner prescribed by the [two last articles], under the penalty of a fine of five and twenty dollars for every offence.¹²⁴

ART. CCV.¹²⁵ No inhabitant shall be discharged from the obligation of feeding his slaves, by permitting them, instead of feeding them, to work certain days in the week for their own account, under the penalty of five and twenty dollars for every offence.¹²⁶

ART. CCVI.¹²⁷ Every inhabitant is prohibited from suffering in his camp, other assemblies than [those] of his own slaves,

restoring the overplus, if any; which fine shall be paid to the church warden of the parish, wherein the said offence shall have been committed, for the benefit of the poor of the said parish; and it shall be the duty of said justices of the peace to inform themselves, from time to time, in what manner slaves are treated in their respective districts, and to enforce, by every means in their power, the strict execution of the present act.

The 21st section of the second part of this act, 1 D. 119, provides—

Section 21. All the fines and confiscations ordered by this act, which have not been appropriated, or the recovery of which has not been regulated, shall be enforced, if they do not exceed twenty-five dollars, levied, and seized upon by warrant of a justice of the peace of the [parish] where the said offence shall have been committed; and provided the said fine or confiscation exceeds the sum of twenty-five dollars, the said fine shall be recovered before a competent tribunal.

¹²³ § 3, part 1, act 7 June, 1806, 1 D. 100.

¹²³ § 4, *ibid*, p. 101.

¹²⁴ See note 121, *ante*.

¹²⁵ § 6, part 1, act 7 June, 1806, 1 D. 101.

¹²⁶ See note 121, *ante*.

¹²⁷ § 12, part 1, act 7 June, 1806, p. 102.

under the penalty of paying all the damage which might result to the owner of any strange slave in consequence of such an admittance.¹²⁸

ART. CCVII.¹²⁹ No owner of slaves shall hire his slaves to themselves, under the penalty of a fine of five and twenty dollars for every offence.¹³⁰

ART. CCVIII.¹³¹ No free person shall cause to be sold any goods by his or their slaves, or by hired slaves, in any of the parishes of this [state], except in the city and suburbs of New Orleans, in baskets or bundles, carried on the head, or otherwise, under the penalty of forfeiture of all the goods so carried by slaves, for the benefit of the parish wherein the said offence shall have been committed.

ART. CCIX.¹³² Every person or persons who shall find any slave carrying corn, rice, greens, fowls, or any other provisions whatever, for the purpose of selling the same, without a permission in writing from his master, shall have a right to stop and to seize the said provisions, upon charge of immediately informing thereof the owner of such slave, which said owner shall abandon to such person or persons the said provisions for his or their reward, or shall give them a sum of two dollars instead thereof, if the owner should agree that he has given no permission by writing: provided however, that if said owner should affirm, upon oath, that he has given such a permission by writing, such owner shall not be compelled to give any money, or to abandon the provisions; and if, in case of any such seizure, it shall be proved that such person or persons has or have destroyed the permission of the slave, for the purpose of unjustly appropriating to him or themselves

¹²⁸ See note 121, *ante*.

¹²⁹ § 13, part 1, act 7 June, 1806, 1 D. 102.

¹³⁰ See note 121, *ante*.

¹³¹ § 4, act 8 April, 1811, 2 D. 226.

¹³² § 14, part 1, act 7 June, 1806, 1 D. 102.

the said provisions, such person or persons shall be punished with a fine of twenty dollars, and in case of insolvency, shall be sentenced to two months hard labor.¹³³

ART. CCX.¹³⁴ All persons who shall teach, or permit or cause to be taught, any slave in this state to read, or write, shall, on conviction thereof, before any court of competent jurisdiction, be imprisoned not less than one month nor more than twelve months.

ART. CCXI.¹³⁵ It shall not be lawful for any pedler or hawker, or other person whomsoever, to sell¹³⁶ to any slave, or slaves, any article whatsoever, without the express permission of his, or their owner, or owners, or the person or manager under whose immediate care the said slave or slaves may be placed.

ART. CCXII.¹³⁷ For each and every such offence, the pedler, hawker, or other person so offending, on due proof thereof, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than ten dollars:¹³⁸ provided¹³⁹ that the courts having competent jurisdiction shall have the power of sentencing the delinquents to the fine aforementioned, or to an imprisonment

¹³³ See note 121, *ante*.

¹³⁴ § 3, act 16 March, 1830, p. 96.

¹³⁵ § 1, act 16 March, 1809, 2 D. 224.

¹³⁶ The words "*or purchase of*," in the original law, are omitted in the text, the act of 16 March, 1830, § 2, p. 144, art. CCXV, *post*, having virtually repealed so much of the former as related to the offence of *purchasing from a slave*. See note 138, *infra*.

¹³⁷ Part of § 2, act 16 March, 1809, 2 D. 224.

¹³⁸ This act further provides—

Section 5. All fines and forfeitures imposed by this act, shall be recovered in a summary way, before any court of this territory of competent jurisdiction, in the name of the parish wherein the offence is committed, one half for the benefit of the informer, and the other half to the use of the parish thereof.

By a subsequent act of 23 March, 1824, § 1, 1 D 129, it is further provided, that "the fines imposed by the second section of the act relative to pedlers, approved 16th March, 1809, shall be recoverable either before the district court, by information, presentment, or indictment, in the name of the state, for the

not exceeding eight days, or to both, at the discretion of said courts, [and] of committing any person or persons so offending when such person or persons shall fail to pay the fine imposed on them by said court.¹⁴⁰

ART. CCXIII.¹⁴¹ Any trader, pedler, hawker, by land or water, tavern, or grog shop keeper, or any master, or owner, or any hand employed on board of any flat boats, or any other ~~water craft~~ whatever, or any other person whatever,¹⁴² who shall sell, give, or deliver, or cause to be sold, given, or delivered in payment, or under any pretence whatsoever, to the slave of any other person or persons, without the consent and authorization of the master or owner, or person having charge of such slave, any spiritous and intoxicating liquors; or make any bargain, agreement, or contract with such slave, without the said consent or authorization, to procure, give, or deliver in payment, or under any pretence whatsoever, to any such slave, any spirituous or intoxicating liquors, either by himself,

use of the parish wherein such offence or offences shall have been committed, or in the manner prescribed by said act."

So much of section 2 of the act of 16 March, 1809, 2 D. 224, as inflicted "imprisonment in the parish or district jail, for a certain term, not more than thirty nor less than eight days," was repealed by § 2, act 23 March, 1824, 1 D. 129.

The article in the text so far as it comprehended the sale of intoxicating liquor to any slave, or the sale by any pedler or hawker of arms or ammunition to any such slave, is virtually repealed by the subsequent acts of 2 April, 1832, § 1, art. CCXIII, and the act of 22 February, 1820, § 5, art. CCXIV.

¹³⁹ Part of § 2, act 23 March, 1824, 1 D. 129.

¹⁴⁰ The word "and," inserted between brackets in the text, is not in the original act. The french text reads, "à la discrétion desdites cours, comme aussi de faire emprisonner," &c.

The second section of the act of 23 March, 1824, further provides "that nothing in this act shall be so construed as to deprive any master, mistress, or legal director of any slave or slaves, of the right to recover from any person or persons so offending, such damages as he, she, or they may have sustained in consequence of any such offence or offences."

¹⁴¹ § 1, act 2 April, 1832, p. 162.

¹⁴² The words "or any other person whatever," are omitted by mistake in the official publication, by the state printer, of the act of 1832.

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or by means of a slave, or of any other person whatever, shall, on conviction thereof, forfeit any license or licenses which he may have or hold under any authority of this state, and be for ever deprived of the right of obtaining, or holding any such licenses, and be sentenced moreover to pay a fine, which, for the first offence, shall not be less than two hundred dollars, nor more than four hundred dollars, and for the second offence, not less than four hundred nor more than eight hundred dollars, and the costs of the prosecution; which fine shall be paid, together with the said costs, by the person convicted, into the hands of the sheriff, in open court, immediately after the judgment of condemnation shall have been pronounced; and if the said fine and costs are not then and there so paid, the court shall order the party condemned to be arrested and conveyed to jail, there to remain until the said judgment be satisfied and the jail fees paid, or [until] the party so confined, shall be otherwise discharged by due course of law: provided, that said offender shall not be imprisoned for a term less than thirty days, nor more than six months.¹⁴³ Shall not be subject to the provisions of [this article], the owners of slaves, their overseers, or agents charged with the superintendence of such slaves, who shall give spirituous liquors to their own slaves, or to other slaves belonging to others under their control, either by hire or otherwise.¹⁴⁴

¹⁴³ Sections 3 & 4 of the act of 21 May, 1806, 1 D. 564, so far as they relate to the offence of selling spirits to slaves, were virtually repealed by § 24, part 1, of the act of 7 June, 1806, 1 D. 105, itself virtually repealed by § 1, of the act of 2 April, 1832, p. 162, art. CCXIII in the text; and so far as they related to selling spirits to indians, they are repealed by § 1, act 29 December, 1812, 1 D. 565, art. CLIII, *ante*.

¹⁴⁴ This act further provides—

Section 3. That in the city of New Orleans, and all the parishes of this state, it shall be the duty of every police officer, constable, marshal, deputy marshal, sheriff, or deputy sheriff, to denounce every violation of this act which shall or may come to their respective knowledge; and every police officer, constable, marshal, deputy marshal, sheriff, or deputy sheriff, who, knowing of any violation of this act, shall not denounce the same to a magistrate within twenty-four hours thereafter, shall be deemed guilty of a misdemeanor, and, on conviction

Handwritten notes:
 # Remanded to English to compare
 with the French text. 1844 p. 32
 # The act of 1806, which was repealed
 in 1832, is now in force, and it is
 now the duty of every police officer
 to denounce every violation of this act
 which shall or may come to their
 respective knowledge.

ART. CCXIV.¹⁴⁵ If any pedler or hawker shall sell any species of¹⁴⁶ arms, or ammunition whatever, to any negro,¹⁴⁷

thereof, [be] removed from office, and shall, moreover, be sentenced to a fine not exceeding one hundred dollars, nor less than twenty-five.

Section 4. That all fines to be imposed by virtue of this act, shall be one third for the informer, one third for the prosecuting attorney, and one third to the state for the use of the charity hospital; and the informer shall be a competent witness in all prosecutions under this act, whenever such informer shall abandon his share of the fine to the state, for the use of said hospital, or any other charitable institution.

Section 5. That every trader, pedler, hawker by land or water, tavern or grog shop keeper, or any master, or owner, or any hand employed on board of any flat boat, or of any other water craft whatever, or any other person whatever, who shall violate the provisions of this act, shall be responsible *civiliter*, for any damages which any slave to whom they or either of them shall have given, sold, or delivered, or caused to be given, sold, or delivered, any spirituous or intoxicating liquor, may cause or occasion to the person or property of any person whatever, whilst in a state of intoxication, if the said intoxication was the effect of the spirituous or intoxicating liquor thus obtained by the intoxicated slave; and when the said intoxication shall have been the effect of spirituous or intoxicated liquor obtained from several traders, pedlers, hawkers by land or water, tavern or grog shop keepers, or masters, or owners, or hands employed on board of any flat boat, or of any other water craft whatever, or any other person whatever, on one and the same day by any slave, in violation of this act, every trader, pedler, hawker by land or water, tavern or grog shop keeper, or master, or owner, or hand employed on board of any flat boat, or of any other water craft whatever, or any other person whatever, who shall have, in any degree, contributed to said intoxication, by selling, giving, or delivering, or by causing to be sold, given, or delivered in violation of this act, any spirituous or intoxicating liquor to the slave, causing, doing, or occasioning any damage to the person or property of any person whatsoever, shall, *in solido*, be responsible, *civiliter*, for all said damage or damages.

Section 6. That it shall not be lawful for any trader, pedler, or hawker by land or water, tavern or grog shop keeper, or any master, or owner, or any hand employed on board of any flat boat, or of any other water craft whatever, when prosecuted or sued, by virtue of this act, to plead that the spirituous or intoxicating liquor was given, sold, or delivered by any of his clerks, servants, engagés, apprentices, or slaves, without his knowledge.

The second section of this act conferred on the parish judges, except in the *parish* of Orleans, power to punish all violations of its provisions, though it is probable, from the whole act taken together, that it was not the intention of the legislature to give this power to any of the parish courts of the parishes composing the first district. It further provided—

“That neither in the criminal court of the first district, nor in any parish

4. From a state of 17th's provisions to the present, no one has been convicted of this offence, and it is probable that the law is not strictly enforced. It is alleged that the law is not strictly enforced, and it is probable that the law is not strictly enforced.

such pedler, or hawker, on conviction of the same, before any court of competent jurisdiction, shall be rendered thereby incapable of receiving a license thereafter, and forfeit all goods and chattels found in his possession, one half to the state, and one half to the informer.¹⁴⁵

court without the said first district, no pedler, hawker by land or water, tavern or grog shop keeper, shall be sworn as a juror to try any of the offences provided against by this act; provided, that nothing in this section contained, shall deprive the district courts of concurrent jurisdiction."

A subsequent section of the same act declared—

Section 9. That the district courts of this state, excepting in the first judicial district, shall have exclusive jurisdiction of the offences prohibited by this law, any provisions in the second section to the contrary notwithstanding.

It appears from the provision of the second section, that "no pedler, hawker by land or water, tavern or grog shop keeper" could be a juror "in the criminal court of the first district, nor in any parish court without the said first district" to try any offences against this act. The omission to exclude such persons from being jurors in the *parish courts of the parishes of the first district*, is strong evidence that the intention of the legislature was to confine the jurisdiction of such offences in the first district, to the criminal court of that district.

¹⁴⁵ § 5, act 22 February, 1820, 2 D. 227.

¹⁴⁶ The words "spirituous liquors" which occur in this place in the original act, are omitted; that act, so far as it relates to the sale of spirituous liquors to any negro, having been virtually repealed by § 1, act 2 April, 1832, p. 162, art. CCXIII, *ante*.

¹⁴⁷ The word "*negro*" is translated in the french part of this act "*esclave*," which was doubtless the meaning of the legislature. The words "or if any such trader shall purchase any poultry, stock, or article of any description from any slave, without the consent of his master, mistress, or overseer of said slave" in the original act, are not inserted in the text, that portion of the act having been virtually repealed by § 2 of the act of 16 March, 1830, p. 144, art. CCXV. The same offence is punished by both acts, and the infliction of a penalty of fifty dollars by the last, must be construed to repeal the "forfeiture of all the goods and chattels found in the possession" of the offender, prescribed by the first.

¹⁴⁸ See art. CXXVI; and § 6, 8 of the act of 1820, book 1, ch. VI, note 97. A previous act of 8 April, 1811, 2 D. 225, had provided—

Section 3. Every pedler or hawker is expressly forbidden by this act from selling, or causing to be sold, or from delivering, or causing to be delivered to any slave, or slaves, with or without the permission of his or their master, any kind of arms or ammunition whatever, under the penalty of a fine of five hun

ART. CCXV.¹⁴⁹ If any free person in this state shall purchase from any slave, or slaves, any species of property whatever, or receive in exchange, or acquire by barter, or gift, or receive on deposit, any species of property whatever, from any slave or slaves, such slave or slaves not being specially authorized in writing [¹⁵⁰by his, her, or their owner, or owners, specially setting forth the articles to be sold, or in the absence of the owner or owners, by the written authority of the overseer, or other person having charge of such slave or slaves] to sell, barter, exchange, give, or deposit the articles purchased, or received in exchange, or acquired by barter, gift, or deposit, such free person or persons shall, for every such offence, incur the penalty of fifty dollars, to be recovered before any justice of the peace or other court of competent jurisdiction, one half for the benefit of the owner or owners of the slave or slaves, and the other half for the benefit of the informer, not being owner, and if owner the whole penalty shall inure to his, her, or their benefit: and on the trial of any such free person for acquiring by purchase, barter, exchange, gift, or deposit any species of property from a slave, such slave not being authorized as [above mentioned], to sell, barter, exchange, give, or deposit certain species of property, the fact of purchasing, bartering, exchanging, giving, or depositing, being proven, it shall be

dred dollars, or one year's imprisonment, at the discretion of the court before whom the said prosecution shall be instituted, either by indictment or otherwise; and the fines which may be recovered by virtue of this section, shall be for the benefit of the territory, and paid to the treasurer of the same.

The act of 22 February, 1820, seems to have been intended to repeal this clause; it is possible, however, that there may be cases in which it would be held to be still the law. The former provides for the offence of *selling* any species of arms or ammunition, &c., the latter for the offence of *selling or causing to be sold, or delivering, or causing to be delivered*. Under the principles of strict literal construction applied to penal law, the last might be considered to embrace cases which would not fall under the first of these acts.

¹⁴⁹ § 2, act 16 March, 1830, p. 144.

¹⁵⁰ The original act reads without being specially authorized in writing, "as provided for in the first section of this act;" these words are omitted, and the provision of the first section is inserted, between brackets, in the text.

presumed that such sale, barter, exchange, gift, or deposit was made without the written authority contemplated [by this article], unless the defendant produces in open court, in his defence, such written authority as is herein before contemplated, setting forth the articles authorized to be sold, bartered, exchanged, given, or deposited.¹⁵¹

ART. CCXVI.¹⁵² Any person who shall admit in any house or place a slave, or shall sell, or buy from that slave any thing whatsoever after sun down, without the leave of his owner, shall be liable to pay a fine of fifty dollars for every offence.¹⁵³

ART. CCXVII.¹⁵⁴ If any person shall give a note, or permit to any slave, who is the property or under the care of another person, without the consent, or against the will of the owner of the said slave, or any other person under whose charge he may be, the said person shall be liable to the penalty of fifty dollars to the owner of the said slave; and in case the said person is unable to discharge the said fine, he, or she shall be condemned to public labor for the space of one month.

¹⁵¹ This act further provides, p. 146—

Section 5. That nothing contained in the first section of this act shall be so construed as to forbid the selling, or exchanging, or depositing by slaves employed by their owners, or employed as regular market persons, of articles in the regular market place, or other place authorized by the police regulations of the parish or town, as the case may be; provided, such slave be permitted by a general permit, by such owners, or employers, in which the article, or several species of articles in which they are allowed to deal are mentioned.

¹⁵² § 4, act 12 March, 1838, p. 102.

¹⁵³ Nothing in the language of this section restricts its operation to any particular parish. The other sections of the act are, however, confined to the parish of Rapides; and its title is—"an act to amend 'an act to establish the manner of electing police jurors in the parish of Rapides, and for other purposes,' approved 9 March, 1836." The act of 9 March, 1836, related only to the parish of Rapides.

¹⁵⁴ § 31, part 1, act 7 June, 1806, 1 D. 108.

ART. CCXVIII.¹⁵⁵ Any inhabitant, his overseer, or his representative, who shall prevent, or forcibly oppose the patrols [for the police of slaves], when they shall proceed to visit the negro huts, shall, on conviction thereof, be condemned to a fine not exceeding one hundred dollars, nor less than twenty dollars, to be recovered, on information, before any court of competent jurisdiction, for the use of the parish.

ART. CCXIX.¹⁵⁶ All captains or commanders of steam-boats navigating lakes, rivers, or bayous, within the jurisdiction of the state of Louisiana, shall, when running during the night, be compelled to hoist each two lights, both on the hurricane deck, one forward, and the other at the stern, which lights shall be kept up without intermission throughout the night, under the penalty of five hundred dollars for every failure or neglect to comply with the provisions of this [article], to be recovered of the captain, or other commanding officer of such steamboat, before any court of competent jurisdiction, one half of which penalty shall be for the use of the informer, and the other half for the benefit of the state.¹⁵⁷

ART. CCXX.¹⁵⁸ Any captains, agent, or owner of a steamboat, who shall fail to obtain the certificate of the examination provided for [by the act of 6 March, 1834, relative to steamboats],¹⁵⁹ shall be barred from the recovery of any

¹⁵⁵ § 3, act 9 January, 1821, 2 D. 223.

¹⁵⁶ Act 31 March, 1832, p. 148.

¹⁵⁷ See the act of congress of 7 July, 1838, p. 899, providing "for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam." The effect of the legislation of congress on the acts of the legislature of this state on this subject, remains to be determined. Whether such legislation, *ipso facto*, repeals all state laws on the subject, or only repeals them so far as they conflict with the laws of congress, and if the latter, to what extent, are questions that can only be decided by the proper judicial tribunals.

¹⁵⁸ § 3, act 6 March, 1834, p. 56.

¹⁵⁹ This act provides, p. 55-9 :

Section 1. That the governor shall appoint one engineer, who shall hold his office for two years, unless removed, as hereinafter provided, and whose duty

claim for freight or insurance, that may accrue, when without said certificate ; and should any loss or damage to property in such case occur in consequence of the breaking or bursting of any part of the machinery, the owner or agent shall be responsible to the shipper for full amount of said loss or damage.¹⁶⁰

ART. CCXXI.¹⁶¹ The captain of any boat that may not have been examined, [and] obtained the certificate before [mentioned], shall in the event of any loss or damage to property, occasioned by the breaking or bursting of any part of the machinery, be subject to a fine, not less than five hundred, nor more than two thousand dollars, and imprisonment of not less than three months, nor more than three years ; and in the event of loss of life being the result of such accident, then said officer shall be adjudged guilty of manslaughter.¹⁶²

it shall be, on application, carefully and fully to examine the machinery of steamboats arriving in the port of New Orleans, and test the strength of the boilers by hydraulic pressure equal to three times the pressure the boilers may be supposed capable of carrying in steam, and when found in good and safe condition, [he] shall furnish a certificate, setting forth the fact, specifying the weight of steam that may with safety be carried ; for which certificate he shall be entitled to receive, for every boat of twenty to fifty tons, five dollars, from fifty to one hundred tons, ten dollars, from one hundred to three hundred tons, fifteen dollars, and from three hundred tons and upwards, twenty dollars.

Section 2. That the captain, owners, or agents of steamboats plying within the waters of this state, shall apply for such an examination, and certificate, as is required in the first section of this act, at least once in every three months, as far as practicable, and when it is not so, then the fact shall be shown by the owner or agent.

Section 11. That the engineer so named may, in case of sickness only, appoint in his place a deputy, who is to be approved of by the governor ; and it shall be the duty of the engineer to have an office in the city or suburbs of New Orleans.

¹⁶⁰ See note 157, *ante*.

¹⁶¹ § 4, act 6 March, 1834, p. 56. The "and" between brackets, is not in the original act, in the office of the secretary of state. The french text reads—
" Que le capitaine de tout bateau à vapeur qui n'aura pas ainsi subi un examen, et pour lequel le certificat n'aura pas été obtenu comme il est dit ci-dessus, sera," &c.

ART. CCXXII.¹⁶³ Any accident except such as are impossible to be foreseen or avoided, that may happen from racing, carrying higher steam than may appear from the certificate to be consistent with safety, running into or afoul of another boat, or that may occur whilst the captain, pilot, or engineer is engaged in gambling, or attending to any game of chance or hazard, or whenever an accident happens from the boat being overloaded, the owner of the boat shall be subject to the penalties provided for in [article CCXX], and the officer or officers of said boat violating the provisions of [the act of 6 March, 1834, relative to steamboats],¹⁶⁴ shall be subject to the penalties provided for in [article CCXXI].¹⁶⁵

ART. CCXXIII.¹⁶⁶ For any false certificate, or one given without the thorough examination contemplated by [the said act], the engineer, who may be appointed to make the examination of engines, shall be dismissed from office, and be fined not less than three hundred nor more than one thousand dollars, and imprisoned not less than one nor more than five years; and the governor may, on satisfactory representation of the incapacity, negligence, or inattention of the engineer, dismiss him, and appoint a successor, subject to the confirmation of the senate.¹⁶⁷

ART. CCXXIV.¹⁶⁸ When gunpowder is shipped on board of a steamboat, which shall at all times be stowed away at as great a distance as possible from the furnace, a written notification of the fact shall be placed in three conspicuous parts of the boat; and in the event of such notification not

¹⁶² See note 157, *ante*.

¹⁶³ § 5, act 6 March, 1834, p. 57.

¹⁶⁴ The whole of this act will be found in arts. CCXX to CCXXVIII inclusive, and in note 159, *ante*.

¹⁶⁵ See note 157, *ante*.

¹⁶⁶ § 6, act 6 March, 1834, p. 57.

¹⁶⁷ See note 157, *ante*.

¹⁶⁸ § 7, act 6 March, 1834, p. 57.

being so exhibited, then, for any loss of property, or life for which the powder may be deemed the cause, the owner shall be liable to the penalty, provided in [article CCXX],¹⁶⁹ and the captain to the penalties in [art. CCXXI].¹⁷⁰

ART. CCXXV.¹⁷¹ Any person or persons who shall ship, or put on board, or cause to be shipped or put on board of any steamboat, within this state, any gunpowder, without giving notice thereof, at the time of making the shipment, to the master or clerk of said boat, shall be liable to a penalty of two hundred dollars, which may be sued for and recovered, before any court of competent jurisdiction, by the owner, captain, or clerk of said boat, for his or her own use and benefit; and in case of any loss of property in consequence of gunpowder being on board of said boat, the shipper that shall have failed to give due notice, as herein required, shall be liable for all losses of property, or damage done thereto, or for any injury done to any person or to their family; and in case of the loss of the life of any individual on board, in consequence of gunpowder being on board, the person, or persons, who shall have shipped the same, without giving due notice thereof, shall, on conviction thereof, be adjudged guilty of manslaughter, and punished accordingly.¹⁷²

ART. CCXXVI.¹⁷³ It shall be the duty of the master and pilot of a steamboat, when descending any river or stream in the limits of this state, when within one mile of an ascending

¹⁶⁹ This act reads in the original, "provided in the *first* section," while the french translation reads "prévues par la troisième section." The first section, see note 159, *ante*, provides no penalty whatever for any offence. The french part of the 7th section doubtless expresses the intention of the legislature. The mistake is corrected, for convenience, in the text; but the effect of the error can only be determined by the proper tribunals, when a case shall make it necessary.

¹⁷⁰ See note 157, *ante*.

¹⁷¹ § 8, act 6 March, 1834, p. 58.

¹⁷² See note 157, *ante*.

¹⁷³ § 10, act 6 March, 1834, p. 58.

steamboat, to shut off the steam, and ring the bell, and permit the boat to float upon the current of the river until the ascending boat shall have passed; and the master and owner of the ascending boat shall then assume the responsibility of steering clear of the descending boat, and be liable in damages to the extent of the injury which may be sustained.¹⁷⁴

ART. CCXXVII.¹⁷⁵ It shall be the duty of the captains and owners, or the agent of every steamboat, under the penalties mentioned in [article CCXXI], to substitute an iron chain [for] the rope now used as a tiller rope.¹⁷⁶

ART. CCXXVIII.¹⁷⁷ The captains of all steamboats, plying within the waters of this state, or other officers commanding the same, shall be bound to post up two copies of the act [of 6 March, 1834, relative to steamboats], one in French and one in English, in some conspicuous part of their boats, under a penalty of one hundred dollars.¹⁷⁸

¹⁷⁴ See note 157, *ante*.

¹⁷⁵ § 12, act 6 March, 1834, p. 59.

¹⁷⁶ See note 157, *ante*.

¹⁷⁷ § 9, act 6 March, 1834, p. 58.

¹⁷⁸ See note 157, *ante*.

An act of 20 March, 1818, 2 D. 127, authorizing the establishment of a powder magazine near the city of New Orleans, provides—

Section 2. As soon as a quantity of powder, greater than one hundred pounds, shall be imported into this state, it shall be the duty of the owner or consignee of the vessel, or craft on board of which the same shall have been imported, to cause such powder to be immediately removed to the aforesaid magazine, agreeably to the regulations which the mayor, aldermen, and inhabitants of New Orleans may enact on that subject; and the said removal shall take place within three days from the arrival of the powder in the port of New Orleans, under a penalty of a fine of twenty dollars, for every hundred weight of powder imported as aforesaid, which fine may be recovered before any court of competent jurisdiction, one half for the benefit of the said mayor, aldermen, and inhabitants, and the other half for the use of the informer.

An act of 27 March, 1823, provides, 2 D. 138—

Section 2. From and after the first of June next, it shall no longer be permitted to bury the dead in the present catholic grave-yard [in the city of New Orleans], under the penalty of a fine of five hundred dollars, for each and every contravention; which fine shall be recovered, on information of the at-

torney general, before any court of competent jurisdiction, one half thereof for the benefit of the informer, and the other half for the benefit of the charity hospital of New Orleans: provided, that it shall be lawful for the mayor of the city of New Orleans, whenever he shall think it compatible with the healthiness of the said city, to permit the opening any family tomb, actually situated in the present grave-yard, in order to depose therein the body of any member of the same family.

An act of 6 March, 1819, 1 D. 99, supplementary to the act of 10 April, 1811, relative to the recording of births and deaths, provides—

Section 1. That, after the passage of this act, the birth of every free child in the parish of New Orleans, shall be declared therein within thirty days. This declaration shall be made conformably to the third section of the act to which this is a supplement [by its father, or in case the father cannot make the said declaration, by any other person who may have been present at the birth of the child, § 3, act 10 April, 1811, 2 D. 97]; and every person offending against the provisions of the said section, shall pay a fine not exceeding ten dollars and not less than five dollars, half of which shall be for the benefit of the state, and the other half for the benefit of the informer.

Section 2. The death of every free person within the parish of New Orleans, shall be declared therein within thirty days. This declaration shall be made by the nearest relations of the deceased, if they are present, and in case of absence, by the testamentary executor if there is one; if none, by the owner, or tenant of the house in which the individual will have died. And every person offending against the provisions of this section, shall be fined in a sum not exceeding ten dollars, nor less than five dollars.

By several acts of the legislature fines are imposed on the officers of different incorporated towns for neglects of the duties prescribed by those acts, as by § 9, 10 of the act of 14 March, 1820, 2 D. 131, and § 5 of the act of 17 February, 1821, 2 D. 133, concerning the city of New Orleans; by § 2, 6 of the act of 16 January, 1817, 1 D. 84-7, concerning the town of Baton Rouge: by § 7 of the act of 14 March, 1820, 2 D. 64, concerning the town of Monroe, repealed by act of 25 March, 1831, p. 94, and revived by act of 25 January, 1834, p. 14; by § 4 of the act of 14 February, 1821, 2 D. 155, concerning the town of Opelousas. These provisions have not been inserted in this Digest, being local in their operation, and rather forming a part of the police regulations of each town, than of the body of the penal law of the state.

By various acts of the legislature different penalties are imposed on proprietors and others neglecting, or infringing the provisions of the laws regulating the police of the public roads and levees. See 2 D. 310-27; acts of 7 February, 1829, p. 76; of 16 March, 1830, p. 114; of 8 February, 1831, p. 6; of 31 March, 1832, p. 190; of 29 March, 1833, p. 91; of 10 March, 1834, p. 95; of 2 April, 1835, p. 211; of 9 March, 1836, p. 118; of 7 March, 1837, p. 48; of 7 March, 1838, p. 46; of 12 March, 1838, p. 94; of 26 February, 1839, p. 4; of 20 March, 1840, p. 56; of 18 February, 1841, p. 24; of 6 March, 1841, p. 52; and of 8 March, 1841, p. 90.

CHAPTER VIII.

OFFENCES AGAINST THE PERSONS OF INDIVIDUALS.

CCXXIX. Murder, rape, or administering poison with intent to commit murder. CCXXX. Attempt by any free negro, mulatto, indian, or mustee to commit rape on any white woman or girl. CCXXXI. Duelling where death ensues, or aiding and abetting therein. CCXXXII-III. Manslaughter. CCXXXIV. Concealment by a mother of the birth of any child, or aiding and assisting therein. CCXXXV-VI. Maiming or disfiguring, or aiding and abetting therein. CCXXXVII. Crime against nature. CCXXXVIII. Assaulting any free white person. CCXXXIX. Assaulting and beating, wounding short of maiming, or false imprisonment. CCXL. Assault with intent to commit rape or robbery. CCXLI. Assaulting with a dangerous weapon, or with intent to kill—CCXLII. second offence, or assaulting with a dangerous weapon, or with intent to kill and wounding less than mayhem. CCXLIII. Insult, or assault and battery of any white, by a free person of color. CCXLIV. Abuse, or cruel or evil treatment of, or neglect of duty towards any apprentice or bound servant by master or mistress, or absconding or neglect of duty by such apprentice or servant. CCXLV-VI. Cruel punishment of slaves. CCXLVII. Kidnapping any free person of color, or conspiring, aiding, or assisting therein—CCXLVIII. second offence. CCXLIX. Bringing into the state any free person of color, and holding, or offering to sell such person as a slave.

ART. CCXXIX.¹ If any person or persons shall commit either of the crimes of murder,² or rape, or shall administer any kind of poison to any person with the intent to commit the crime of murder, such person, or persons so offending, on conviction thereof, shall suffer death.³

ART. CCXXX.⁴ If any free negro, mulatto, indian, or mustee shall attempt to commit a rape on the body of any white woman or girl, the said free negro, mulatto, indian, or mustee, shall, on conviction thereof, suffer death.⁵

ART. CCXXXI.⁶ If any person shall voluntarily engage in a duel with rapier or small sword, back sword, pistol, or other dangerous weapon to the hazard of life, and death should ensue, the survivor shall, upon conviction, suffer death; and all and every person aiding and abetting as second, agent, and

¹ § 1, act 7 June, 1806, 1 D. 376.

² An act of 7 June, 1806, 1 D. 118, contains the following provision. It is not inserted in the text, and might have been left out of the original act, without much loss to the legislation of the state.

Section 16. If any person whatsoever shall wilfully kill his slave, or the slave of another person, the said person, being convicted thereof, shall be tried and condemned agreeably to the laws of the territory.

³ So much of this section as related to the offence of "shooting or stabbing any person with the intent to commit the crime of murder," was virtually repealed by § 1 and 2, act 6 March, 1819, 1 D. 397, which sections were themselves done away with by § 4 and 5 of the act 7 February, 1829, p. 166, arts. CCXLI, and CCXLII, *post*. The article in the text re-enacts the provisions of § 1, act 4 May, 1805, 1 D. 362, and embraces the offence provided for by the 7th section, of the 2d part, of the act of 7 June, 1806, 1 D. 115, which declares, that "any free negro, mulatto, indian, or mustee who shall wilfully or maliciously poison, or maliciously administer poison to any free man, woman, child, servant, or slave, shall suffer death."

⁴ Act 16 February, 1818, 1 D. 129.

⁵ This act extends to slaves; but so much only as relates to free persons is inserted here, none of the laws punishing slaves being included in this compilation. The act in the text re-enacted the provision of § 7, of the 2d part, of the act of 7 June, 1806, 1 D. 115, in regard to the crime of rape, when committed by the persons therein named.

⁶ § 16, act 20 March, 1818, 1 D. 395. The word "who," between brackets, is substituted for "and," the reading of the original act.

abettor, [who] shall be duly convicted, shall be punished as accessories before the fact in murder. . . .

ART. CCXXXII.⁷ On trials for murder the jury may find the prisoner guilty of manslaughter, if they should be of opinion that he is not guilty of murder, but of manslaughter.

ART. CCXXXIII.⁸ If any person shall hereafter commit manslaughter, and shall be thereof convicted, he, she, or they shall be subject to be fined in a sum not exceeding two thousand dollars, and imprisoned at hard labor a term not exceeding twenty years, according to the aggravated circumstances of the case.⁹ . . .

ART. CCXXXIV.¹⁰ If any woman shall be delivered of any issue of her body, and shall endeavor privately, either by drowning, or secret burying thereof, or in any other way, either by herself, or the aid and assistance of others, so to conceal the birth thereof that it may not come to light whether it be born alive or not, in any and every such case, the said mother, together with all and every other such person or persons so aiding and assisting, shall, on conviction thereof, be punished by imprisonment not less than five, nor more than fourteen years. . . .

ART. CCXXXV.¹¹ If any person, or persons, on purpose and of malice aforethought, shall unlawfully cut or bite off the ear or ears, or cut out, or disable the tongue,¹² while fighting,

⁷ § 1, act 20 March, 1818, 1 D. 389.

⁸ § 2, *ibid.*

⁹ This section virtually repeals § 22 of the act of 4 May, 1805, 1 D. 367. See arts. CCXXI-II, IV, V, and VII, for several offences made manslaughter by the act of 6 March, 1834, p. 55, relative to steamboats.

¹⁰ § 3, act 22 February, 1817, 1 D. 384.

¹¹ § 23, act 4 May, 1805, 1 D. 367.

¹² The words "put out an eye," in the original act, are not inserted in the text, so much of the act of 1805 having been virtually repealed by the subsequent act of 22 February, 1817, 1 D. 383, art. CCXXXVI.

or otherwise; slit the nose or a lip, cut or bite off the nose or lip, or cut off or disable any limb or member of any person, with intention in so doing to maim, disable, or disfigure such person in any manner before mentioned; then, in every such case, the person or persons so offending, their counsellors, aiders, and abettors shall, on conviction thereof, pay a fine not exceeding one thousand dollars, and shall be further punished with imprisonment at hard labor not exceeding seven years.

ART. CCXXXVI.¹³ If any person or persons, on purpose and of malice aforethought, shall put out an eye or the eyes of any person, while fighting or otherwise, with intention in so doing to disfigure or blind such person, then, and in every such case, the person or persons so offending, their counsellors, aiders, and abettors, shall, on conviction thereof, pay a fine not exceeding two thousand dollars, and shall be further punished with imprisonment and hard labor for a time not less than seven years, nor exceeding fourteen years.

ART. CCXXXVII.¹⁴ Every person who shall hereafter be duly convicted of the detestable and abominable crime against nature, committed with mankind or beast, shall suffer imprisonment at hard labor for life.¹⁵

ART. CCXXXVIII.¹⁶ Whoever shall be guilty of assaulting any free white person, shall suffer fine not exceeding one hundred dollars, or imprisonment not exceeding three months, or both, at the discretion of the court.¹⁷

¹³ Act of 22 February, 1817, 1 D. 383.

¹⁴ § 2, act 4 May, 1865, 1 D. 362.

¹⁵ This section originally extended to the crime of rape, but so far as relates to that offence it was virtually repealed by § 1, act of 7 June, 1806, 1 D. 376, art. CCXXIX.

¹⁶ § 4, act 19 March, 1818, 1 D. 388.

¹⁷ Section 12 of the act of 19 March, 1818, 1 D. 389, art. DXXXVII, provides "that where the punishment of fine and imprisonment is left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years."

ART. CCXXXIX.¹⁸ Whoever shall be guilty of assaulting and beating, wounding short of maiming, or of falsely imprisoning any person, shall, on conviction thereof, suffer fine or imprisonment, or both, at the discretion of the court.¹⁹

ART. CCXL.²⁰ Whoever shall assault another with intent to commit rape, or robbery, shall, on conviction thereof, be imprisoned at hard labor not exceeding two years, and shall afterwards give sufficient security for good behavior for one year.²¹

ART. CCXLI.²² Whoever shall, with a dangerous weapon, or with intent to kill,²³ make an assault upon another person, in the peace of the state then being, shall, on due conviction thereof, be imprisoned for a period not exceeding twelve months, nor less than three months, and without or with hard labor, and fined in a sum not exceeding five hundred dollars, according to the aggravation of the offence, at the discretion of the court having cognizance thereof.

ART. CCXLII.²⁴ Whoever shall be convicted a second time for a like offence, or whoever shall with a dangerous weapon, or with intent to kill, inflict a wound less than mayhem upon another person, in the peace of the state then being,

¹⁸ § 32, act 4 May, 1805, 1 D. 369.

¹⁹ See note 17, *ante*.

²⁰ § 24, act 4 May, 1805, 1 D. 367.

²¹ This section, so far as it related to the offence of "assaulting by wilfully shooting at or with intent to commit murder," was virtually repealed by sections 4 and 5 of the subsequent act of 7 February, 1829, p. 166, arts. CCXLI-II, and that portion has been omitted; it is still the law prescribing the punishment for the offences mentioned in the text.

²² Part of § 4, act 7 February, 1829, p. 166.

²³ The act of 1806, c. 29, provided for the punishment of one who should "shoot or stab any person with the intent to commit the crime of murder." On an indictment for stabbing under that act, it was decided, that it must be proved to have been such a stabbing, as, if death had ensued, the homicide would have amounted to murder, or the prisoner would be acquitted; citing Milton's case, 1 East P. C. 411. *Territory v. Mather*, 2 Martin, 48.

²⁴ § 5, act 7 February, 1829, p. 166.

shall, on due conviction thereof, be imprisoned for a period not exceeding two years, nor less than six months, and without or with hard labor, and fined in a sum not exceeding one thousand dollars, according to the aggravation of the offence, at the discretion of the court having cognizance thereof.

ART. CCXLIII.²⁵ If a free person of color insult, or assault and beat any white person, such offender, on conviction of either of said offences, shall be punished by imprisonment or fine, or by both, at the discretion of the court, according to the enormity of the offence.²⁶

ART. CCXLIV.²⁷ If any master or mistress shall abuse, or cruelly or evilly treat, or shall not discharge his or her duty towards his or her apprentice or servant, or if said apprentice or servant shall abscond, or absent him or herself from the service of his or her master or mistress, without leave, or shall not do or discharge his or her duty to his or her master or mistress, then said master, or mistress, or apprentice, or servant, being aggrieved, shall or may apply to the judge of any [parish] where the parties reside for redress, who, after giving due notice to the party against whom the complaint is lodged, [shall] bring said parties, by warrant or otherwise, before him, and take such order and direction between the said master and mistress, apprentice, or servant, as the equity and justice of the case may require.²⁸

²⁵ § 5, act 19 March, 1816, 1 D. 127.

²⁶ See note 17, *ante*.

²⁷ § 3, act 21 May, 1806, 1 D. 22.

²⁸ As this act was originally passed the application was required to be made to "the judge of any county." By the 10th section of the act of 31 March, 1807, p. 14, *parish* judges were established in place of the *county* judges then existing.

See art. CLXXVIII, for powers of mayor or parish judge where apprentice or bound servant has absconded, or absented himself from the service of his master.

ART. CCXLV.²⁹ In case any person or persons should inflict any cruel punishment, except flogging, or striking with a whip, leather thong, switch, or small stick, or putting in irons, or confining [any] slave, the said person shall forfeit and pay, for every offence, a fine not exceeding five hundred, and not less than two hundred dollars.

ART. CCXLVI.³⁰ If any slave be mutilated, beaten, or ill treated, contrary to the true intent and meaning of [the last article], when no one shall be present, in such case, the owner, or other person having the charge or management of said slave thus mutilated, shall be deemed responsible and guilty of the said offence, and shall be prosecuted without further evidence, unless the said owner or other person, so as aforesaid, can prove the contrary by means of good and sufficient evidence, or can clear himself by his own oath; which said oath every court under the cognizance of which such offence shall have been examined and tried, is [hereby] authorized to administer.

ART. CCXLVII.³¹ If any person or persons shall, without due process of law, seize, and forcibly confine, or inveigle, or kidnap any negro, mulatto, or other person of color, not being a slave, with intent to send him within or out of this state against his will, or shall conspire with any other person or persons, or aid, [abet], assist, command, or procure any other person to commit the said offence, such person or persons so offending, shall, on conviction of any of the said offences, be fined, or imprisoned, or both, at the discretion of the court before which such conviction shall be [had]; such fine not to exceed one thousand dollars, and such imprisonment not to exceed fourteen years at hard labor or otherwise.

²⁹ Part of § 16, part 2, act 7 June, 1806, 1 D. 118.

³⁰ § 17, *ibid.*

³¹ § 6, act 6 March, 1819, 1 D. 398. The words "abet" and "had," between brackets, are substituted for "abate" and "heard," evidently clerical errors in the original act.

ART. CCXLVIII.³² Every person who shall be a second time, or oftener convicted of any offence of kidnapping, as mentioned in the preceding [article], shall be imprisoned at hard labor not exceeding twenty years.

ART. CCXLIX.³³ If any free person, or persons, shall hereafter knowingly bring, or cause to be brought into this state, any free negro, mulatto, or person of color, and shall hold the same as a slave, or shall offer the same for sale to any person or persons in this state as a slave, every such person, or persons, shall pay for every such free negro, mulatto, or free person of color, the sum of one thousand dollars, over and above the damages, which may be recovered by such free negro, mulatto, or free person of color, to any person, or persons, who will sue for and recover the same; which may be done either by indictment, or by information filed by the attorney general, or by the district attorney, as the case may be, or by a civil action brought by any person prosecuting for the same.

³² § 7, act 6 March, 1819, 1 D. 399.

³³ § 8, act 16 March, 1830, p. 92.

CHAPTER IX.

OFFENCES AGAINST THE HABITATIONS AND PROPERTY OF INDIVIDUALS.

CCL. Arson, or malicious burning of any house or water craft—CCLI. or preparing combustible matter with intent so to do. CCLII. Burning, or attempting to burn, or otherwise destroy any public work, or work belonging to a corporation, not punishable as arson. CCLIII. Maliciously burning any hovel, crib, cock, mow, or stack of hay, fodder, corn, or grain, or being accessory thereto before the fact. CCLIV. Burning or destroying any stack of rice, corn, or other grain, or raw, or manufactured produce of the state, by any free negro, mulatto, indian, or mustee. CCLV—VI. Burglary, or aiding, consenting, or abetting therein, or being accessory thereto before the fact. CCLVII. Breaking and entering any shop, store, court house, church, barn, rice or sugar house, cotton gin, office, warehouse, or out house appurtenant to a dwelling house, or plantation, or ship, or vessel, in the night, with intent to commit any felony, or, having with such intent entered, in the night breaking any such building or vessel, or aiding, or consenting therein, or being accessory thereto before the fact. CCLVIII. Entering in the night, without breaking, or in the day breaking and entering any dwelling house, or out house adjoining and occupied therewith, or any office, shop, or warehouse, or any vessel, with intent to commit felony, or aiding, abetting, or counselling therein. CCLIX—LX.

Larceny. CCLXI. Embezzling or using money belonging to, or on deposit in any bank of this state, by any officer or other person employed in such bank, or aiding or abetting therein. CCLXII. Stealing any horse, mare, ass, or mule. CCLXIII. Inveigling, stealing, or carrying away any slave, or hiring, aiding, or counselling any person so to do, or aiding any slave to run away. CCLXIV—VI. Conveying any slave out of the state on board of any vessel or water craft, without the consent of the owner, or receiving, or permitting such slave to be received on board any such vessel with intent to carry such slave out of the state, or concealing or permitting any runaway slave to be concealed on such vessel, for the purpose of enabling such slave to escape. CCLXVII. Carrying, or attempting to carry any slave out of the state, by land, without the consent of the owner, with intent to enable such slave to escape. CCLXVIII—IX. Master of vessel transporting, or attempting to transport any person of color out of the state, without complying with the requisitions of the law—CCLXX. or refusing, or neglecting to land any slave found concealed on board, if discovered within the limits of the state. CCLXXI. Transporting by mortgagor, or attempting to transport any mortgaged slaves out of the state, in fraud of mortgagee. CCLXXII—IV. Receiving by hiring, or otherwise, any slave without the permission of his or her master, or harboring or concealing runaway slaves knowing them to be such, or cutting or breaking chain or collar used to prevent their running away. CCLXXV. Robbery. CCLXXVI. Attempting to rob from the person, by cutting or tearing the clothes, thrusting the hand into the pockets, or otherwise. CCLXXVII. Taking possession of vacant estate, or of part thereof, without authority, with intent to convert the same to his or her own use. CCLXXVIII. Neglect, or refusal to comply with provisions of law, in regard to anchors or cables found in the Mississippi. CCLXXIX. Transporting, for profit or hire, any person or goods across any river,

stream, or lake, within one league of any licensed ferry.
CCLXXX. *Beating, without sufficient motives or lawful authority, any slave employed in the lawful service of his master, or other person having charge of such slave.*
CCLXXXI. *Wantonly or maliciously killing any horse, mule, ass, cow, or animal of the cow kind, or dog belonging to another, without lawful excuse—***CCLXXXII.** *or wantonly, maliciously, or cruelly beating, maiming, or disabling any such animal, without lawful excuse.* **CCLXXXIII—VII.** *Forgery.* **CCLXXXVIII.** *Furnishing slave with false free papers, or certificates of birth or christening, showing such slave to be free born.*

ART. CCL.¹ Whenever a free person shall be convicted of having maliciously set fire to a mansion house, or other building, or to a vessel, or other water craft, the person thus convicted shall suffer death.²

ART. CCLI.³ Whenever any free person shall be convicted of having maliciously prepared combustible matters, and put them in any place with the intent to set fire to a mansion house, or other building, or to a vessel, or other water craft, the person thus convicted shall be sentenced to an imprisonment at hard labor, for a term not less than ten years, nor more than fifteen years, although the said person had not yet set fire to the said combustible matters.⁴

¹ § 1, act 21 February, 1828, p. 38.

² This act virtually repeals the 4th section of the act of 22 February, 1817, 1 D. 384, so far as they conflict. See note 4, *infra*.

³ § 2, act 21 February, 1828, p. 38.

⁴ The act of 1828, inserted in the text, may be considered as having repealed, to all practical purposes, the law of the 22 February, 1817, § 4 & 5, 1 D. 384. The latter had virtually repealed the third section of the previous act of 4 May, 1805, 1 D. 362. It is possible that offences may occur that can only be punished under the provisions of the 4th and 5th sections of the act of 1817. They are, in consequence, subjoined, with the exception of a part

ART. CCLII.⁵ If any person, or persons, shall wilfully and maliciously set fire to, or burn, or attempt to burn, or otherwise destroy any public work, or works belonging to a corporation, other than those for the burning of which he could be prosecuted for arson, the said person, or persons shall, on conviction thereof, be punished by imprisonment at hard labor for not less than one, nor more than ten years.⁶

ART. CCLIII.⁷ Any person who shall wilfully and mali-

of the 4th section repealed by the 1st section of the act of 21 February, 1828, p. 38, art. CCL.

Section 4. If any person or persons shall wilfully and maliciously set fire to, or burn any fences, piles of wood, boards and lumber, or other combustible matter, by means of which any dwelling house or other building of another, or any ship, vessel, or other water craft of another, lying within the limits of this state, be burnt, such offender, or offenders, and any person present, aiding, abetting, or consenting in the commission of the said offence, or accessary thereto before the fact by counselling, hiring, or procuring the same to be done, on conviction of any of said offences, shall be sentenced to an imprisonment at hard labor for a term not less than seven, nor more than fourteen years.

Section 5. If any person or persons attempt wilfully and maliciously to set fire to any dwelling house, or any other building of another, situate in any part of this state, or to set fire to any ship, vessel, or other water craft of another, lying within the limits of this state, such offender, or offenders, and any person aiding, abetting, or consenting in the said attempt, or accessary thereto before the fact, as aforesaid, shall, on conviction thereof, be imprisoned at hard labor for a time not less than five, nor more than ten years.

⁵ § 1, act 7 February, 1829, p. 164.

⁶ This act further provides—

Section 2. Whenever the offences mentioned in the previous section shall have been committed by a slave, with the consent or connivance of his owner, or of any other free person, such slave, or slaves, so committing said offence, shall, on conviction, suffer corporeal punishment, not extending to death or mayhem, and the person, or persons so consenting or conniving, shall be responsible in damages to the full amount of the value of the property so injured or destroyed.

Section 3. If any slave, or slaves shall wilfully and maliciously commit any of the offences enumerated in the previous sections of this act, such slave or slaves shall, on conviction, suffer corporeal punishment, at the discretion of the court, not extending to death, and his, her, or their owners shall be responsible in damages to the full amount of the value of such slave or slaves.

⁷ § 13, act 4 May, 1805, 1 D. 364.

ciously burn any hovel, crib, cock, mow, or stack of hay, fodder, corn, or grain, or shall be accessory to either of said offences before the fact, shall, upon conviction thereof, pay the damages that any person may sustain thereby, and shall moreover suffer imprisonment at hard labor, not less than seven, nor more than fourteen years.⁸

ART. CCLIV.⁹ If any free negro, mulatto, indian, or mustee, shall maliciously burn or destroy any stacks of rice, corn, or other grain, or produce, raw or manufactured, of this [state], this free negro, mulatto, or mustee, shall suffer death.¹⁰

⁸ So much of this section as provided for the punishment of any person who should wilfully and maliciously burn "any out-house, barn, or stable, not adjoining some dwelling house, sugar house, cotton house, cotton gin house, or store," is virtually repealed by § 1, act 21 February, 1828, p. 38, art. CCL. *ante*. See art. CCLIV.

⁹ Part of § 7, part 2, act 7 June, 1806, 1 D. 115.

¹⁰ The omission of the word "*indian*" in the last clause of this sentence, appears to have been accidental. The language which precedes this provision in the original act, precludes all doubt as to the intention of the legislature to include indians, with the others, for whom it prescribes a punishment. The section in the original act commences—"The different crimes and offences hereafter particularly described, are hereby declared to be capital crimes." So much of this section as related to the crime of rape is re-enacted in the subsequent law of 16 February, 1818, 1 D. 129, art. CCXXX; The part which provided that whoever should "set fire to, or willingly or maliciously burn or destroy any building or house" should suffer death, was virtually repealed (except so far as the word "*destroy*" in the act of 7 June, 1806, may be considered as extending it to cases not embraced in the act of 22 February, 1817) by the act of 22 February, 1817, § 4, 1 D. 384, note 4, *ante*, which changed the punishment to imprisonment for a period not less than seven nor more than fourteen years. The subsequent act of 21 February, 1828, § 1, p. 38, art. CCL, restored the former penalty, declaring that any free person convicted of maliciously setting fire to any mansion house or other building, should suffer death. The part punishing any free man of color or indian for "maliciously stealing any slave," is virtually repealed by the act of 6 March, 1819, § 3, 1 D. 398, art. CCLXIII. So much as related to the offence of poisoning, is included in the general terms of the first section of the act of 7 June, 1806, 1 D. 376, art. CCXXIX. The section in the text, and that which forms art. CCXXIX were passed on the same day. The former punishes with death

ART. CCLV.¹¹ If any person, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall, in the night time, break and enter, or having, with such felonious intent, entered, shall, in the night time break a dwelling house, any person then being lawfully therein, and such offender being at the time of such breaking or entering armed with a dangerous weapon, or arming himself or herself in such house with a dangerous weapon, or committing an actual assault upon any person lawfully being in such house, every such offender, and any person present, aiding, assisting, or consenting in such burglary, or accessary thereto before the fact, by counselling, hiring, or procuring such burglary to be committed, who shall be duly convicted thereof, shall suffer the punishment of death.¹²

ART. CCLVI.¹³ If any person, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall in the night time break and enter, or having, with such felonious intent, entered, shall in the night time break a dwelling house, without being armed with a dangerous weapon, or without arming him or herself in such house with a dangerous weapon, and without committing an assault upon any person lawfully being in such house, every such offender, and every person present, aiding, and abetting in such burglary, or accessary thereto, before the fact, by counselling, hiring, or procuring such burglary to be committed, who shall be duly convicted thereof, shall be punished by confinement at hard labor not exceeding fourteen years.¹⁴

"any free negro, mulatto, indian, or mustee who shall wilfully or maliciously poison, or maliciously administer poison to any free man, woman, child, servant, or slave"—the latter, "any person who shall administer any kind of poison to any person *with the intent to commit the crime of murder*." The portion of § 7 of the act of 1806 inserted in the text, is all that remains in force applicable to free persons.

¹¹ § 3, act 20 March, 1818, 1 D. 389.

¹² This act virtually repeals the 5th section of the act of 4 May, 1805, 1 D. 362.

¹³ § 4, act 20 March, 1818, 1 D. 390.

¹⁴ The punishment of solitary imprisonment prescribed by this section was

ART. CCLVII.¹⁵ If any person with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall in the night time break and enter into any shop, store, court house, church, barn, rice or sugar house, cotton gin, office, warehouse, or any out house appurtenant to a dwelling house, plantation, or any ship, or vessel, or having with such felonious intent entered, shall in the night time break any such house, building, ship, or vessel, and all and every person present, aiding, assisting, or consenting in such burglary, or accessary thereto, before the fact, by counselling, hiring, or procuring such burglary to be committed, who shall be thereof duly convicted, shall suffer confinement at hard labor for a term not exceeding ten years.¹⁶

ART. CCLVIII.¹⁷ If any person with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall in the night time enter without breaking, or in the day time break or enter any dwelling house, or out house thereto adjoining and occupied therewith, or any office, shop, or warehouse, or any ship or vessel lying within the body of a parish, every such offender, and every such person present, aiding, or abetting in the commission of such offence, or who shall have counselled, hired, or procured the same to have been committed, being thereof duly convicted, shall be punished by confinement at hard labor not exceeding five years, and be fined not exceeding one thousand dollars.¹⁸

done away in all cases, "except in enforcing obedience to the regulations of the police of the penitentiary," by the act of 12 March, 1838, § 4, p. 109, art. DLI.

¹⁵ § 5, act 20 March, 1818, 1 D. 390.

¹⁶ The punishment of solitary confinement prescribed by this section, was abolished by act of 12 March, 1838, see note 14 *supra*.

¹⁷ § 7, act 20 March, 1818, 1 D. 391.

¹⁸ The punishment of solitary confinement inflicted by this section, was abolished by an act of 1838, see note 14, *supra*. The act in the text inflicts the punishment prescribed by it, on any person who shall "in the day time break or enter any dwelling house," &c.—the french part of the act, on any person who, "pendant le jour entre avec effraction."

ART. CCLIX.¹⁹ Whoever shall be guilty of larceny, shall be imprisoned at hard labor, or otherwise, not exceeding two years.

ART. CCLX.²⁰ Larceny of bank notes, obligations, or bonds, bills obligatory, or bills of exchange, promissory notes for the payment of money, or notes for the payment of any specific property, lottery tickets, paper bills of credit, certificates granted by or under the authority of this [state], or of the United States, or of any of them, shall be punished in the same manner, both as [to] the principal and accessory, as larceny of goods and chattels.

ART. CCLXI.²¹ Any president, cashier, teller, or clerk, or other officer or person employed in the service of any bank chartered by this state, or by the late territory of Orleans, or which may hereafter be chartered by said state, who shall knowingly and wilfully embezzle, or convert to his or their own use, or shall knowingly aid and abet any person or persons in embezzling, or converting to his or their use, any money, or sums of money, belonging to such bank, or placed in deposit in the same, shall, on due conviction thereof, suffer imprisonment at hard labor for a term not exceeding seven years, nor less than one year.

ART. CCLXII.²² Whoever shall steal any horse, mare, ass, or mule, shall suffer imprisonment at hard labor not less than one year, nor more than five years.

ART. CCLXIII.²³ All and every person and persons who shall inveigle, steal, or carry away any negro, or other slave

¹⁹ § 1, act 19 March, 1818, 1 D. 387.

²⁰ Part of § 10, act 4 May, 1805, 1 D. 363. The word "to" is inserted in the text, between brackets, in place of the word "of" a clerical error in the original act. The french part reads—"quant au principal," &c.

²¹ Act 10 February, 1821, 1 D. 403.

²² § 2, act 19 March, 1818, 1 D. 387.

²³ § 3, act 6 March, 1819, 1 D. 398.

or slaves, or shall hire, aid, or counsel any person or persons to inveigle, steal, or carry away as aforesaid, any such slave, so as the owner of such slave or slaves shall be deprived of the use and benefit of such slave or slaves, or shall aid any such slave in running away, or departing from his master's service, such person, or persons, so offending, on conviction of any of such offences, shall suffer imprisonment at hard labor for a term not less than two years, nor more than twenty years.²⁴

ART. CCLXIV.²⁵ If any master or commander of any ship, vessel, or other water-craft in this state, or any other person, shall carry and convey out of the same, on board of any such ship, vessel, or other water-craft, any slave, or slaves, the property of any person or persons of this state, without the consent of the owner or owners of the said slave or slaves previously obtained, or shall take and receive on board of any such ships, vessels, or other water-craft, any such slave or slaves, or permit or suffer the same to be done, with the intent and for the purpose of carrying and conveying such slave or slaves out of this state, or shall wickedly and willingly conceal, or permit to be concealed on board of any such ship, vessel, or other water-craft, any slave or slaves who shall or may hereafter abscond from their master or mistress, with the intent and for the purpose of enabling such slave or slaves to effect his, her, or their escape out of this state, every such master or commander of any such ship, vessel, or other water-craft, or any other person, so carrying and conveying, or so taking, receiving, and concealing, or causing or permitting the same to be done with an intent as aforesaid, shall be subject to a criminal prosecution, and on conviction of any of the said offences, shall suffer imprisonment at hard labor for a term not exceeding seven years, and not less than three years; and moreover, the said master or commander, or any other person,

²⁴ This section virtually repeals so much of § 7, part 2, of the act of 7 June 1806, 1 D. 115, as relates to the same offence.

²⁵ § 1, act 13 February, 1816, 1 D. 379.

shall be sentenced to pay all the damages that the owner or owners of the said slave or slaves may have suffered thereby, which damages shall be assessed by the same jury who shall give their verdict on the criminal prosecution.²⁶

ART. CCLXV.²⁷ If in future any person finds one or more of his slaves on board of a ship, steamboat, or other vessel destined to make voyages out of this state, or from one part of the state to another, and said slave or slaves be on board without the written consent of the owner, the captain, master, and proprietors of said ship, steamboat, or other vessel, whether the said slave have been transported out of the state, or from one part thereof to another part, or [be] on the point of being transported, whether the said slaves have been hidden or not on board of the said ship, steamboat, or vessel, the owners, master, and captain of said ship, steamboat, or vessel shall be presumed to have received said slaves on board of their vessel, or to have hidden them, or to have suffered them to remain on board, with the intention of depriving their masters of them, and of transporting them out of the state, or from one part of the state to another. And this presumption of the law shall not be destroyed, but on the testimony of at least two witnesses, not employed on board of said vessel, and on corroborating circumstances.

ART. CCLXVI.²⁸ The owners, masters, and captains of the said ships, steamboats, or other vessels shall be responsible to the owners of the slaves of a fine of five hundred dollars per slave thus taken away or lost, besides the value of the slaves that shall have been taken away from their masters who shall have lost them; which fine shall be recoverable before any judge of competent jurisdiction. The said fine shall be incurred when the said slave or slaves shall have been found

²⁶ The proviso, which formed a part of this section in the original act, was virtually repealed by § 1 of the act of 25 March, 1840, p. 89, art. CCLXV.

²⁷ § 1, act 25 March, 1840, p. 89.

²⁸ § 2, act 25 March, 1840, p. 90.

aboard, without a written permission from their owners. And the owners, masters, and captains of the said ships, steamboats, and other vessels, shall be considered as responsible, in solido, and individually, to the owners of the slaves for their value, and the amount of the fine mentioned in this [article].²⁹

ART. CCLXVII.³⁰ If any person or persons shall carry and convey, or attempt to carry and convey out of this state, by land, any slave or slaves being the property of any person or persons of this state, without the consent of the owner or owners of the said slave or slaves previously obtained, with the intent of making such slave or slaves to effect his, her, or their escape out of this state, such person, or persons, on conviction thereof, shall suffer the same punishment, and be liable to the same damages as directed by [article CCLXIV.]: provided, that whenever any person or persons shall be found in the act of carrying and conveying, or of attempting to carry or convey, any slave or slaves out of this state, the presumption shall be that the same is done with the intent aforesaid.

ART. CCLXVIII.³¹ No master or commander of any ship, vessel, or other water-craft, shall hereafter transport, or attempt

²⁹ This act further provides—

Section 3. That the owner of any slave, thus transported or found abroad without the written consent of the said owner, shall have a tacit privilege on the said ship, steamboat, or other vessel on board of which the slave shall have been transported or found, as provided for in this act, without reference to the person in whose possession or charge the said steamboat, ship, or vessel may be.

Section 4. That besides the value of the slaves who shall have been taken away or lost, and the fine imposed in this act, their owner may receive from the owners, masters, and captains of the said ships, steamboats, or other vessels, all damages that he may have suffered; and the said masters, captains, and owners shall be responsible in solido, and individually, for the damages, to recover which the owner of the slaves shall have the same tacit privilege granted to him in the third section of this act.

³⁰ § 2, act 13 February, 1816, 1 D. 380. The word "*making*" in this article seems to have been used by mistake for "*enabling*"—the french text reads, "*procurer auxdits esclaves les moyens,*" &c.

³¹ § 3, act 13 February, 1816, 1 D. 381.

to transport any negro, mulatto, man or woman, or other person of color out of this state, on any pretence whatsoever, until he shall have produced the said negro, mulatto, man or woman, or person of color, before the mayor, if in the parish of New-Orleans, or before any parish judge of the parish in which his ship, vessel, or water-craft shall lie, and shall have made out and lodged with the said mayor or parish judge, a written declaration, signed by him, and containing a description of the said negro, mulatto, man or woman, or person of color, together with his name and surname, probable age, and alleged place of birth or residence, and the port to which the said master or commander may be bound, and until he shall have satisfied the said mayor or parish judge by an authentic written proof, or by the oath of two credible witnesses residing in said parish, or by the affidavits made before the judge of the parish from whence said negro, mulatto, man or woman, or person of color is come, by two credible witnesses domiciliated therein, that the said negro, or mulatto, man or woman, or person of color is free, or until he shall have produced to the said mayor or parish judge, the written direction of the owner of such negro, or mulatto, man or woman, or person of color, commanding or permitting him to carry him or her out of this state ; and when the said master or commander shall have so done, it shall be the duty of the said mayor or parish judge, as the case may be, to keep and retain the said declaration in his office, and to grant him a written certificate thereof.

ART. CCLXIX.³² Every master or commander of a ship, vessel, or other water-craft, neglecting or refusing to perform the requisites imposed by the preceding [article], shall pay and forfeit the sum of five hundred dollars for every slave by him so carried or attempted to be carried away out of this state, one moiety to the state, and the other moiety to the informer, to be recovered, with costs, by information filed in any competent court ; and moreover, such master or commander shall be

³² § 4, act 13 February, 1816, 1 D. 382.

liable to the suit of the party grieved, for his or her damages, and in both suits the said master or commander shall give bail or surety for his appearance.

ART. CCLXX.³³ If any master or commander of any ship, vessel, or other water-craft, happens to discover any slave or slaves concealed on board, it shall be their duty, if still in the river, or within the limits of this state, to land the said slave or slaves [at] the nearest place, and there to deliver him, her, or them, to any judge, justice of the peace, sheriff, jailor, or in defect thereof to any inhabitant of the said place, that he, she, or they may be sent to their master; and if the said master or commander refuses, or neglects to perform the requisites contained in this [article], he shall be liable to the same punishment and damages which are mentioned in [article CCLXIV].

ART. CCLXXI.³⁴ If any person, or persons, who did mortgage any of his slaves to another, shall transport, or attempt to transport, or cause to be transported out of this state, the said slave or slaves thus mortgaged, in fraud of the mortgages, such person, or persons thus offending, and their aiders and abettors, shall, on conviction of any of the said offences, suffer the same punishment, and be liable to the same damages as directed by [article CCLXIV].

ART. CCLXXII.³⁵ If any person shall conceal in his or her house any slave, or shall receive such slave as hired, or otherwise, without permission from his master, it shall be the duty of the judge, or justice of the peace, before whom complaint of such offence shall be made, to condemn, on conviction, such person, or persons, to pay to the master or masters of said slaves, or to his representative, the sum of two dollars for every day that such person or persons shall have concealed

³³ § 5, act 13 February, 1816, 1 D. 382.

³⁴ § 6, *ibid.*

³⁵ § 2, act 14 April, 1807, 1 D. 119.

the said slave or slaves ; and moreover such person or persons shall be responsible in his, her, or their own and proper name, for every damage which the said slave or slaves may have committed during the time of this or her concealment at said person or persons ; and if said person or persons shall not have the means to pay to the master or masters of said slave or slaves, the above compensation, such person or persons shall, by the judge, or justice of the peace, be condemned to an imprisonment which shall not exceed three months, and which shall not be less than fifteen days.

ART. CCLXXIII.³⁶ If any person do harbor or conceal any runaway slave, or slaves, or do receive the same by hiring him, her, or them, or otherwise, it shall be the duty of the judge, or justice of the peace, upon his being informed that such an offence has been committed, to condemn, on conviction, the person or persons thus guilty, to a fine which shall not exceed three hundred dollars, nor be less than one hundred dollars, to the benefit of the parish where the offender may reside, and the offender shall moreover be liable to the penalties [prescribed by the last article].

ART. CCLXXIV.³⁷ If any person or persons shall harbor, or conceal any runaway slave, or slaves, or fugitives from their masters, knowing that they are such, or shall cut or break any iron chain or collar which any master of slaves should have used in order to prevent the running away or escape of any such slave or slaves, such person, or persons so offending, shall, on conviction of any of such offences, be fined not less than two hundred dollars, nor exceeding one thousand dollars, and suffer imprisonment for a term not exceeding two years nor less than six months.

ART. CCLXXV.³⁸ Every person who shall commit the

³⁶ Act 20 March, 1809, 1 D. 121.

³⁷ § 5, act 6 March, 1819, 1 D. 398.

³⁸ § 4, act 4 May, 1805, 1 D. 362.

crime of robbery, and be thereof convicted, shall³⁹ suffer imprisonment at hard labor, not less than seven, nor more than fourteen years. "Robbery of bank notes, obligations, or bonds, bills obligatory, or bills of exchange, promissory notes for the payment of money, or notes for the payment of specific property, lottery tickets, paper bills of credit, certificates granted by or under the authority of this [state], or of the United States, or of any of them, shall be punished in the same manner, both as [to] the principal and accessory, as robbery of goods and chattels.

ART. CCLXXVI.⁴¹ If any person or persons shall be found guilty of attempting to rob from the person of another money, or other property, by cutting or tearing the clothes, thrusting the hand into pockets, or otherwise, of such person, though he, she, or they do not succeed in such attempted robbery, the person or persons so offending, shall, on conviction, be sentenced by the court to be imprisoned not less than six months, nor more than two years, and fined in a sum not exceeding five hundred dollars.

ART. CCLXXVII.⁴² In case any person or persons shall take possession of a vacant estate, or a part thereof, without being duly authorized to that effect, with the intent of converting the same to his own use, he, she, or they shall be prosecuted, by information, and, on conviction thereof, shall be fined not exceeding two thousand dollars, to the benefit of the state; and shall be moreover liable to pay all the debts of the said estate, exclusive of the damages to be claimed by the parties who may have suffered thereby.

³⁹ So much of this section as inflicted the punishment of whipping, was repealed by § 7 of the act of 17 February, 1821, 1 D. 337, art. DXLVIII, and is omitted.

⁴⁰ Part of § 10, act 4 May, 1805, 1 D. 363. The word "to" is inserted in the text, in place of the word "of," a clerical error in the original act. The french part reads, "quant au principal," &c.

⁴¹ § 3, act 21 February, 1828, p. 38.

⁴² § 12, act 18 March, 1820, 1 D. 343.

ART. CCLXXXVIII.⁴³ Whenever any person or persons shall take, or cause to be taken up any anchor, or cable, in the river Mississippi, he or they shall bring or send the same to the port of New-Orleans, where the same shall be deposited in such place as the master and wardens of said port shall determine; and if claimed within three months by the owners thereof, or their agents, the said anchor or cable shall be restored to the said owners or their agents, on their proving property, and paying to the person so taking up and bringing the same to the port of New-Orleans, such salvage as shall be determined by the master and wardens of said port; and in case such anchor or cable should not be claimed within the said space of three months, the same shall become the property of the person or persons by whom they may have been taken up. And any person neglecting or refusing to comply with the provisions of this [article], shall forfeit and pay for every such offence a sum of fifty dollars.

ART. CCLXXXIX.⁴⁴ When any person, in virtue of a license duly obtained as [directed by the act of 19 April, 1805, for the regulation of ferries], shall have established a ferry for transporting persons or goods across any river, stream, or lake within this [state], no other person shall or may transport, for profit or hire, any person or persons, or any goods whatever, across the same, within one league of the place where such licensed ferry shall be so established, under penalty of forfeiting, for every such offence, the sum of five dollars, to be recovered before any justice of the peace of the [parish] where such offence shall be committed, or, if the same be on waters that divide two [parishes], then in either of the same; which said penalties shall be applied to the use of the poor thereof.⁴⁵

⁴³ § 7, act 1 March, 1826, 1 D. 521.

⁴⁴ § 3, act 19 April, 1805, 1 D. 475.

⁴⁵ In almost every instance where a ferry has been established by act of the legislature, a special clause has been introduced imposing a pecuniary fine for any violation of the privileges of the proprietor of such ferry. So, in some

ART. CCLXXX.⁴⁶ If any slave employed in the lawful service of his master, overseer, or other person having charge

cases, where the privilege of establishing a bridge is conferred by law. See the different acts.

The offence of wilfully injuring or destroying any part of any rail road, or any of the necessary works, buildings, carriages, vehicles, or machines belonging to any rail road company, is punished by special provisions in each act of incorporation; in most cases, by subjecting the offender to a fine of one hundred dollars in favor of the company, recoverable by suit before any court of competent jurisdiction, by making him liable for all damages occasioned by his act, and by subjecting him to an indictment at any time within six months after the commission of the offence, and to punishment by a fine not exceeding one thousand dollars, or imprisonment not exceeding twelve months, or to both. See the different acts of incorporation.

An act of 3 July, 1805, incorporating the "Orleans Navigation Company," provides, 2 D. 96—

Section 12. If any person shall break or throw down any embankment, or other work lawfully erected by virtue of this act, or shall forcibly pass through any of the said canals or improved navigation, such persons, besides making good all the damage occasioned thereby, shall forfeit and pay, in addition to the toll legally due, the sum of one hundred dollars, to be recovered by the said treasurer of the said corporation, to their use.

An act of 5 March, 1831, incorporating the New Orleans Canal and Banking Company, provides, p. 48—

Section 13. That if any person shall break or throw down any embankment, or other work, lawfully erected by virtue of this act, or shall forcibly pass through said canal, such persons, besides making good all the damage occasioned thereby, shall forfeit and pay, in addition to the toll legally due, the sum of one hundred dollars, to be recovered by said corporation.

An act of 1 April, 1833, incorporating the Commercial Bank of New Orleans, provides, p. 166—

Section 36. That if any person or persons shall obstruct the said company, their successors, agents, workmen, or servants, in conveying the said water into the said city and its faubourgs, or shall change, alter, remove, injure, or destroy any work, or part of a work made by the said company, or caused to be made, for the purpose of introducing water into the city of New Orleans and its faubourgs, under the authority of this act; or if any person shall alter, obstruct, change, or pollute, by any tanyard, hog-stye, slaughter-house, dyepot, or otherwise, the waters or streams which the said company shall hereafter introduce, or shall be preparing to introduce into the city of New Orleans and its faubourgs, under the authority given and regulations prescribed by this act, such person or persons shall be indicted in the proper court for the trial of offences within the parish of New Orleans committed, and, being thereof convicted, shall be fined at the discretion of the court [see art. DXXXVII.],

of the said slave, shall be beaten by any person or persons not having sufficient motives or lawful authority to act so, of which motives the justices of the peace shall respectively judge, every person thus offending shall pay, for every such offence, a fine of ten dollars to the [parish], and if the slave shall be mutilated, or rendered, in consequence of the blows so given, incapable of working, the person so offending shall, besides the fine above levied, be obliged to pay the master of the said slave the sum of two dollars per day, for every day's work lost, and the care of the said slave. And if any slave be forever rendered unable to work, then, and in that case, the offender shall be compelled to pay the value of said slave, according to the appraisement made by two freeholders, inhabitants, appointed by each of the parties; and in case said

according to the nature of the offence, and imprisoned for any time not exceeding seven years; such fine to be paid and applied to the use of said company.

An act of 19 March, 1835, incorporating the New Orleans Draining Company, provides, p. 80—

Section 23. That if any person shall wilfully obstruct, oppose, or disturb any officer or servant of the said company, in the discharge of his duty, or any other person employed under the authority of the same, while in the lawful execution of its instructions and orders, or maliciously injure any of the works, engines, or machinery of the company, the person so offending shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding twelve months, or both.

An act of 1 April, of the same year, incorporating the New Orleans Gas Light and Banking Company, provides, p. 107—

Section 38. That if any person or persons shall, wilfully, by any means whatever, injure, or destroy any part of the gas pipes constructed by said company under this act, or any of their works, buildings, fixtures, or machines, such person or persons so offending, shall each of them be liable for all damages occasioned thereby; and may, furthermore, be proceeded against by indictment, at any time within twelve months after such offence shall have been committed, and, upon conviction, be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding twelve months, or both, at the discretion of the court.

An act of 29 March, 1832, incorporating the Nachitoches Causeway Company, imposes a fine, § 6, p. 160, on whoever may injure the works or violate certain rights of the said company.

⁴⁶ § 33, part 1, act 7 June, 1806, 1 D. 108.

parties do neglect to appoint such appraisers within three days after being requested so to do, then said appraisers shall be appointed by the judge of their respective [⁴⁷parishes]; and the slave thus disabled shall be forever maintained at the expense of the person who shall have thus disabled him, which person shall be compelled to maintain and feed said slave agreeably to the duties of masters towards their slaves, as ordered by [the act of 7 June, 1806, prescribing the rules and conduct to be observed with respect to negroes and other slaves]; provided, that should the offender be unable to pay the said fine, and expenses incurred, the judge who shall have pronounced the sentence in the said affair, shall condemn the offender to prison for a period not less than one month, or exceeding one year.

ART. CCLXXXI.⁴⁸ Whoever shall wantonly or maliciously kill any horse, mare, gelding, mule, or jackass, or any milch cow, cow, or beast of the cow kind, or a dog, the property of another person, without some lawful excuse for so doing, and shall be thereof duly convicted, shall be fined in a sum not exceeding two hundred dollars, or imprisonment not exceeding six months, at the discretion of the court having jurisdiction of the cause, and shall be moreover liable to pay to the owner the value of the animal so killed, and pay the costs of prosecution.⁴⁹

⁴⁷ This act reads as originally passed, "by the judge of their respective counties." The 10th section of the act of 31 March, 1807, p. 14, provides for the establishment of parish judges, "*in lieu*" of the judges of the county courts, abolished by that act.

⁴⁸ § 1, act 31 January, 1821, 1 D. 402.

⁴⁹ A subsequent section of this act provides—

Section 3. It shall be the duty of the attorney general, or the district attorneys of this state, to prosecute by indictment in their respective districts where the offence may have been committed, any person who may have been guilty of either of the offences enumerated in this act, upon information being given to him on oath by any person or persons whomsoever.

Act to amend the act of 1806
— Act 1843, p. 10

ART. CCLXXXII.⁵⁰ Whoever shall wantonly, maliciously, or cruelly beat, maim, or disable any of the animals specified in the [last article], without some lawful excuse for so doing, and shall be thereof duly convicted, shall be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding one month, at the discretion of the court having jurisdiction of the cause, and shall be moreover liable to pay to the owner any damage he may sustain in consequence thereof, and pay the costs of prosecution.⁵¹

ART. CCLXXXIII.⁵² If any person shall forge, or counterfeit, or falsely make or alter, or shall procure to be falsely made, altered, forged, or counterfeited, or shall willingly aid or assist in falsely making, altering, forging, or counterfeiting any public record, any certificate or attestation of a justice of the peace, public register, clerk of any court, town clerk, or other public officer, in any matter wherein such their certificate or attestation is receivable and may be taken as a legal proof, any charter, deed, will, testament, bond, or writing obligatory, letter of attorney, policy of insurance, or bill of exchange, any promissory note, order, acquittance or discharge for or upon the payment of money or delivery of goods, or any acceptance of a bill of exchange, or any endorsement or assignment of a bill of exchange or promissory note for the payment of money, any accountable receipt for money or goods, or for any note, bill, or security for money or goods, or any lottery ticket in any lottery legally authorized within this commonwealth, or shall alter or publish as true any such false, altered, forged, or counterfeited record, or certified record, certificate, or attestation, charter, deed, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of exchange, promissory note, acceptance, endorsement, assignment, order, acquittance, discharge, accountable receipt, or lottery ticket,

⁵⁰ § 2, act 31 January, 1821, 1 D. 402.

⁵¹ See note 49, *ante*.

⁵² § 8, act 20 March, 1818, 1 D. 391.

knowing the same to be false, altered, forged, or counterfeited, with intent to injure or defraud any person or any body politic or corporate, then every person so offending in either of the particulars aforesaid, who shall be thereof duly convicted, shall be punished by confinement to hard labor for a term not less than two years, and not exceeding fourteen years.⁵³

ART. CCLXXXIV.⁵⁴ If any person shall falsely make, alter, forge, or counterfeit, or shall procure to be falsely made, altered, forged, or counterfeited, or shall willingly aid or assist

⁵³ See b. 1, ch. 4, note 3. The punishment of solitary imprisonment was inflicted by sections 8, 9, 10, 11, & 12 of this act. By the act of 12 March, 1838, § 4, p. 109, art. DLI, it was abolished in all cases, except in enforcing obedience to the regulations of the police of the penitentiary.

The act in the text virtually repeals § 2 of the act of 22 February, 1817, 1 D. 384. This last act provided—

Section 2. Any person, or persons, who shall falsely make, alter, forge, or cause to be made, altered, or forged, any receipt, or instrument of writing acknowledging the payment of any sum of money, or the receipt of any goods, wares, or merchandize, or property of any kind whatever, or any acquittance, release, or discharge of any debt, account, action, suit, demand, or other things, real or personal, with an intention to defraud any person or persons, body politic, or corporation, shall, on conviction thereof, suffer imprisonment at hard labor for a term of years not less than one, nor more than seven years.

The act of 4 May, 1805, had provided, 1 D. 364.

Section 15. If any person or persons shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid or assist in the false making, altering, forging, or counterfeiting of any letter patent, gift, grant, bond, writing obligatory, bill, or order, or acceptance of such bill or order, note of the bank of the United States, or of the bank of any one of the said states, or of any bank of any of the territories thereof, cotton receipt, promissory note, will, indenture, deed, or contract, with intention to defraud any person, or shall utter, put off, or offer, or cause to be uttered, put off, or offered in payment, or for sale, any such false, forged, altered, or counterfeited bond, bill, or acceptance of such bill or order, note of the bank of the United States, or of the bank of any one of the said states, or of any bank of any of the territories thereof, cotton receipt, promissory note, will, indenture, deed, or contract, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, and shall be thereof convicted, every such person shall suffer imprisonment at hard labor for life.

⁵⁴ § 9, act 20 March, 1818, 1 D. 392.

in falsely making, altering, forging, or counterfeiting, any note certificate, check, or bill of credit which has been or may be issued by the treasurer or other commissioner or commissioners duly authorized for any debt of this commonwealth, or any bank bill or promissory note payable to the bearer, signed in behalf of any company or corporation by law licensed, authorized as a bank within this commonwealth, or payable and demandable therein at the office of any banking company or corporation by any law of the United States,⁵⁵ or if any person having knowledge of such false making, altering, forging, and counterfeiting, shall willingly aid or assist in altering, or rendering current as true any such false, altered, forged, or counterfeited notes, certificates, bills of credit, bank bills or notes, knowing the same to be false, altered, forged, or counterfeited as aforesaid, and for that purpose shall possess at any one time, any number not less than ten, with intent to utter or pass the same, and thereby to injure or defraud this state, any body politic or corporate, or any person or persons, then every person so offending in either of the particulars aforesaid, who shall be thereof duly convicted, shall be punished by confinement at hard labor not exceeding fourteen years.⁵⁶

ART. CCLXXXV.⁵⁷ If any person shall utter, or tender in payment, as true, any such false, altered, forged, or counterfeited note, certificate, check, or bill of any debt of this state, bank bill, check, or promissory note, payable to the bearer by

⁵⁵ The offence of counterfeiting a note of the United States Bank may be punished under a state law, though congress may have provided a different punishment. *Territory v. Ross*, 1 Mart. 146.

Per cur. "The passing counterfeited notes of any bank, to the people of any state, is an injury which they certainly possess the right of preventing, and if the same act becomes hurtful also to the interests of the United States, they must also have the power of preventing the commission of it. The two rights may exist independently of each other, and the exercise of it on one part cannot prevent it on the other." *Ibid.*

⁵⁶ See note 53, *ante*.

⁵⁷ § 10, act 20 March, 1818, 1 D. 393.

any bank as aforesaid, knowing the same to be false, altered, forged, or counterfeited, with intent to injure or defraud this state, any body politic or corporate, or any person or persons, every person so offending and who shall be duly convicted, shall be punished by confinement at hard labor not exceeding three years, or by fine not exceeding two thousand dollars, and by binding to good behavior not exceeding two years, at the discretion of the court before whom the conviction may be; and if, after the conviction, the same person shall be guilty a second time of the like offence, and shall be duly convicted thereof, or if at the same term any person shall be duly charged and convicted in three several instances, then such person may be adjudged a common utterer of counterfeit bills, and shall be confined at hard labor not more than ten years, and not less than two years.⁵⁸

ART. CCLXXXVI.⁵⁹ If any person shall bring into, or shall have in his possession within this state, any false, forged, and counterfeited bill or bills, note or notes, in the similitude of the bills or notes payable to the bearer thereof, issued by or for any bank or banking company which is or shall be established in this state, or in any part of the United States, for the purpose of rendering the same current as true, or with intent to pass the same, knowing the same to be false, forged, or counterfeited, every such offender, upon due conviction thereof, shall be punished by confinement at hard labor not exceeding three years.⁶⁰

ART. CCLXXXVII.⁶¹ If any person shall engrave, form, make, or mend, or shall begin to engrave, form, make, or mend any plate or plates, paper, rolling press, or other tool, instrument, or material devised, adapted, and designed for the stamp-

⁵⁸ See note 53, *ante*.

⁵⁹ § 11, act 20 March, 1818, 1 D. 393.

⁶⁰ See note 53, *ante*.

⁶¹ § 12, act 20 March, 1818, 1 D. 393.

ing, forging, and making any false and counterfeit certificates, bills, or notes which have been or which shall be issued as aforesaid by or for any debt of this state, or by or for any bank or banking company which is or shall be established in this state, or in any other part of the United States, or shall have in his possession any such plate or plates engraven in any part, or any paper, rolling press, or other tool, instrument or material devised, adapted, and designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit certificates, bills, or notes, every person so offending, who shall be thereof duly convicted, shall be punished by confinement at hard labor, not exceeding seven years.⁶²

ART. CCLXXXVIII.⁶³ Any person or persons who shall furnish any slave, or slaves, with any false free papers, or certificates of birth or christening falsely showing such slave or slaves to be free born persons, shall be punished for each and every such offence as in case of forgery.

⁶² See note 53, *ante*.

⁶³ § 8, act 6 March, 1819, 1 D. 399.

BOOK II.

**OF THE MEANS OF PREVENTING AND PUN-
ISHING OFFENCES.**

BOOK THE SECOND.

CHAPTER I.

OF THE MEANS OF PREVENTING OFFENCES.

CCLXXXIX. *Power of justices to bind party to keep the peace, when breach committed or apprehended—CCXC. or when found with concealed weapons.*

ART. CCLXXXIX.¹ Justices of the peace shall have full power, in all cases in which there shall appear to them, by oath, that a breach of the peace has been committed, or that there is just cause to apprehend that a breach of the peace is intended, to cause the party charged with such breach of the peace or intention of breaking the same, to be brought before them respectively, and direct him to give such security as the said justice may deem reasonable, to keep the peace of the [state], and to answer to the offence, if any has been committed, and in case of refusal to give such security, to commit the party so charged, by warrant to be directed and drawn as [prescribed by art. CCCCLXXXII], to the custody of the sheriff of the [²parish], who shall thereupon imprison the said

¹ § 3, act 3 May, 1805, 1 D. 631.

² In the original act "sheriff of the county." Sheriffs of the county were superseded by sheriffs of each parish. See art. CCCXXXI.

party, until he shall enter into such security as has been ordered, before the same or some other judge or justice of the said [3 parish].

ART. CCXC.⁴ When any officer has good reason to believe that any person, or persons, have weapons concealed about them for the purpose of committing murder, or in any other way armed in such a concealed manner, on proof thereof being made to any justice of the peace, by the oath of one or more credible witnesses, it shall be the duty of such judge and justice to issue a warrant against such offender, and have him searched; and, should he be found with such weapons, to fine him in any sum not exceeding fifty dollars, nor less than twenty dollars, and to bind [him] over to keep the peace of the state, with such security as may appear necessary for one year; and on such offender failing to give good and sufficient security as aforesaid, the said justice of the peace shall be authorized to commit said offender to prison, for any time not exceeding twenty days.⁵

³ This act, in the original, reads, "before some other judge or justice of the said *county*." The office of judge of the *county* was abolished by § 10, act 31 March, 1807, p. 14; and by the 25th section of the same act, p. 42, the parish judges and justices of the peace of each parish, were invested with the powers, in their respective *parishes*, which had been previously exercised, under the act in the text, by the county judges and justices of the peace in their respective counties. See art. LXXV.

⁴ § 3, act 25 March, 1813, 1 D. 379.

⁵ See the first section of this act, 1 D. 378, article LXXV, for the punishment of being convicted a second time of the offence of being found with concealed weapons.

CHAPTER II.

COURTS OF CRIMINAL JURISDICTION AND SUBORDINATE OFFICERS.

CCXCI. *Judiciary power how to be vested—Power of Legislature to establish inferior courts—Tenure of office of judges—how removable by address of Legislature—to be conservators of the peace—Style of process—Prosecutions how to be carried on.* CCXCII–CCCII. *The Senate.* CCCIII–XXX. *The Supreme Court.* CCCXXXI–LVII. *District Courts.* CCCLVIII–CCCCVIII. *Criminal Court of the First District.* CCCCIX–XX. *City Court of the city of Lafayette.* CCCCXXI–XXX. *Attorney General, District, and State Attorneys.* CCCCXXXI–XLVI. *Sheriffs.* CCCCXLVII–LIV. *Coroners.* CCCCLV–LXIV. *Justices of the Peace.* CCCCLXV–VI. *Parish Judges.* CCCCLXVII–VIII. *Judges of the City Court of New Orleans.* CCCCLXIX–LXXII. *Constables.*

ART. CCXCI.¹ The judiciary power shall be vested in a supreme court and inferior courts.

The legislature is authorized to establish such inferior courts as may be convenient to the administration of justice.

The judges both of the supreme and inferior courts shall hold their offices during good behavior ; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly: provided how-

¹ Constitution of Louisiana, art. 4, § 1, 4, 5, 6.

ever, that the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house.

The judges, by virtue of their office, shall be conservators of the peace throughout the state. The style of all process shall be "the state of Louisiana." All prosecutions shall be carried on in the name and by the authority of the state of Louisiana, and conclude, against the peace and dignity of the same.

THE SENATE.

ART. CCXCII.² The power of impeachment shall be vested in the house of representatives alone.

All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

ART. CCXCIII.³ The governor and all the civil officers shall be liable to impeachment for any misdemeanor in office, but judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this state; but the parties convicted shall nevertheless be liable and subject to indictment, trial, and punishment according to law.⁴

ART. CCXCIV.⁵ Whenever any person shall wish to accuse a public officer before the legislature, he, or she shall ad-

² Constitution of Louisiana, art. 5, § 1, 2.

³ *ibid.*, § 3.

⁴ The sixth article of the constitution further provides—

Section 8. The legislature shall determine the time of duration of the several public offices when such time shall not have been fixed by this constitution; and all civil officers except the governor and judges of the superior and inferior courts shall be removable by an address of two thirds of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution. See art. CCCCXXVI.

⁵ § 1, act 11 April, 1826, 1 D. 534.

dress to the house of representatives a memorial, containing a brief exposition of the acts of said public officer which are supposed to be contrary to law, to morality, or rectitude of conduct : the said memorial shall be sworn to, and signed by him who presents it, and shall contain a list of the individuals who can give any information relative to the facts set forth in said memorial, with a notice of the several charges which each individual included in said list can substantiate by his testimony.

ART. CCXCV.⁶ Whenever a memorial of the nature of the one mentioned in the preceding [article], shall be submitted to the house of representatives, said memorial shall be referred to a committee, who shall be named and appointed as in other cases : the said committee, after having examined the memorial, and the accompanying documents, shall cause the public officer, accused as aforesaid, with the witnesses for the prosecution, to be cited to be and appear at a subsequent period, either during the same session of the legislature, or any subsequent session thereof, according as the said committee may deem expedient, taking into consideration the time that the general assembly still has to sit : provided however, that the accused may also, on his part, apply to the committee to obtain the necessary citations for the appearance of the witnesses he may wish to summon in his defence.

ART. CCXCVI.⁷ At the appointed time the committee shall proceed to swear and examine the witnesses, both for and against the accused, whose testimony shall be taken down in writing ; they shall then make their report to the house of representatives, and shall declare, in the conclusion, whether they are of opinion that the charges are well founded ; in which case, the house itself, after having obtained all necessary information, shall decide whether it be expedient to proceed by means of impeachment, or simply by the method of voting,

⁶ § 2, act 11 April, 1826, 1 D. 534.

⁷ § 3, *ibid*, 535.

established by the constitution for removals from office. In case the committee shall make a report in favor of the accused, the adoption of the report by the house shall be sufficient, and the accused shall be discharged, and can never after be brought before the legislature for the same acts with which he has been already charged.

ART. CCXCVII.⁸ Whenever, in the opinion of the committee, the witnesses shall reside at such a distance that their attendance at the seat of government must give rise to great expense and loss of time, the said committee shall prepare such interrogatories as they deem proper to be propounded to the witnesses for the prosecution, which interrogatories shall be addressed to the parish judge, to the senior justice of the peace, or to any other justice of the peace of the parish in which the witness may reside, and the said parish judge, senior justice of the peace, or other justice of the peace shall, on the receipt of said interrogatories, cause to appear before him the witness for whom they were drawn up, and having administered the oath to him, shall take down, in writing, his answers, and make him sign them : provided however, that such interrogatories, thus prepared by the committee, shall, previous to their being sent, as aforesaid, be communicated to the accused or his counsel, who shall have a right to add his cross-interrogatories, to which said witnesses are equally bound to answer : provided also, that the accused, on his part, shall be allowed to submit to the committee such interrogatories as he may wish to propound to the witnesses in his behalf ; and then it shall be the duty of the committee, after having added such cross-interrogatories as they shall deem proper to put, to direct the whole as aforesaid, that it may be proceeded upon in the same manner.

ART. CCXCVIII.⁹ Any parish judge, senior justice of the

⁸ § 4, act 11 April, 1826, 1 D. 535.

⁹ § 5, *ibid*, 536.

peace, or any other justice of the peace, to whom interrogatories shall be directed, as above stated in the foregoing [article], may employ all such means as are allowed by law to compel a witness to appear, and condemn to a fine, not less than fifty dollars, and not exceeding one hundred dollars, or to an imprisonment not exceeding ten days, any witness for or against the accused, who, being duly cited, shall have refused to attend, or who, having attended, should refuse to answer to the interrogatories, or sign his answers.

ART. CCXCIX.¹⁰ Whenever the culpability of a public officer shall be ascertained, either by the sentence of the senate, or by the concurrence of both houses, agreeably to the constitution, all the costs arising from the investigation and prosecution of his suit shall be paid by said officer, which shall be recovered by a suit to be instituted against the party condemned, by the attorney-general of the state when the cause arises within the first judicial district, and by the district attorneys when the cause should arise within any of their respective districts : and in order that the provisions of this [article] shall have full effect, it shall be the duty of the secretary of the senate, and the clerk of the house of representatives, to make out a full statement of all costs incurred in the prosecution which shall come to their knowledge, and hand over the same to the attorneys aforesaid, that the said suit may be by them instituted.

ART. CCC.¹¹ In case the public functionary against whom an accusation shall be brought, should resign his office pending the inquest which shall have been ordered by the house, he shall be bound to pay all the costs which shall have been incurred until that time ; and the said costs shall be recovered in the manner provided by the foregoing [article.]

¹⁰ § 6, act of 11 April, 1826, 1 D. 536.

¹¹ § 7, *ibid.*

ART. CCCI.¹² All accusations pending before the legislature at the time of their adjournment, shall be prosecuted and continued by the next legislature.

ART. CCCII.¹³ Every person who shall attend to give evidence at any time and place, in obedience to a citation or summons issued by the authority of the senate or house of representatives, shall be entitled to receive the sum of two dollars for every twenty miles he shall necessarily travel in going to and returning from said place, and the like amount for every day he shall so attend; to be paid, after the claim has been approved by the house ordering his attendance, by the treasurer of the state, upon the warrant of the president of the senate or the speaker of the house of representatives, as the case may be.

SUPREME COURT.

ART. CCCIII.¹⁴ The supreme court shall have appellate jurisdiction only.¹⁵

¹² § 8, act 11 April, 1826, 1 D. 537.

¹³ Part of § 9, *ibid.* The rest of this section, not inserted in the text, was of temporary application, and is out of force.

¹⁴ Part of § 2, art. 4, Constitution of Louisiana.

¹⁵ This section reads "the supreme court shall have appellate jurisdiction only, which jurisdiction shall extend to all civil cases when the matter in dispute shall exceed the sum of three hundred dollars." The latter part is not inserted in the text, relating exclusively to the civil jurisdiction of that tribunal.

In the case of *Laverty v. Duplessis*, after an examination of this section of the constitution, the supreme court, 3 Martin, 52, declared it "the unanimous opinion of the court, that it cannot exercise any criminal appellate jurisdiction;" and in the more recent cases of *Hyde et al. v. Jenkins*, 6 La. Rep. 427, and *The State v. The Judge of the Commercial Court*, 15 La. Rep. 192, they have since intimated the same opinion. The language of the constitution is by no means so clear as to leave no doubt as to the want of power in the legislature to confer appellate jurisdiction on this court in criminal cases. The decisions of the supreme court are, however, conclusive, though the reasoning on which they are founded may not be so; and the question is of less interest since the passage of the act of 30 January, 1841, p. 5, providing for taking the sense of the people as to the expediency of calling a convention to amend the constitution, in this respect, among others.

ART. CCCIV.¹⁶ The supreme court shall consist of not less than three judges nor more than five; the majority of whom shall form a quorum. Each of the said judges shall receive a salary of five thousand dollars annually.¹⁷ The supreme court shall hold its sessions at the places hereinafter mentioned, and for that purpose the state is hereby divided into two districts of appellate jurisdiction, in each of which the supreme court shall administer justice in the manner hereafter prescribed. The eastern district to consist of the counties of New Orleans, German coast, Acadia, Lafourche, Iberville, and Point Coupee. The western district to consist of the counties of Attakapas, Opelousas, Rapides, Concordia, Natchitoches, and Ouachitta. The supreme court shall hold its sessions in each year, for the eastern district in New Orleans¹⁸ during the months of November, December, January, February, March, April, May, June, and July; and for the western district at the Opelousas during the months of August, September, and October, for five years; provided however, that every five years the legislature may change the place of holding said court in the western district. The said court shall appoint its own clerks.

ART. CCCV.¹⁹ All that part of Florida lately attached to, and now forming a part of the state of Louisiana, compre-

See arts. CCCLXI—II for appeals to the supreme court, from decisions of the criminal court of the first district in certain cases.

¹⁶ Constitution of Louisiana, art. 4, § 3.

¹⁷ The 26th section of the act of 10 February, 1813, 1 D. 296, provides, that no judge of the supreme court "shall be permitted to practise as an attorney or counsellor at law in any of the courts of law in this state."

¹⁸ An act of 10 February, 1841, p. 17, provides—

Section 15. That the supreme, district, parish, commercial, and probate, and criminal courts shall continue to be located in the present court house, until a different location is pointed out by law; but in case of the destruction of said court house by fire, or otherwise, then said courts shall be temporarily held in such place, or places, as the majority of the judges thereof may determine, but always as near to each other as practicable.

This section virtually repeals the act of 19 January. 1833, p. 6.

¹⁹ Part of § 2, act of 10 February, 1813, 1 D. 293.

hended within the limits prescribed by an act of the congress of the United States, entitled "an act to enlarge the limits of the state of Louisiana," shall be, and is hereby attached to the eastern district of the said state.

ART. CCCVI.²⁰ The supreme court of the state of Louisiana shall consist of [²¹five] judges, learned in the law.

ART. CCCVII.²² The supreme court may be adjourned by one of its judges, from day to day, until a quorum be convened.

ART. CCCVIII.²³ The judges shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.

ART. CCCIX.²⁴ The causes decided in the parishes of Rapides, Avoyelles, Natchitoches, Catahoula, Concordia, Ouachitta, [Claiborne, Carrol, Caddo, Madison, Caldwell, and Union],²⁵ on which appeals are, or may be taken, shall be returnable to the supreme court sitting at Alexandria, in the parish of Rapides; and the causes decided in the par-

²⁰ Part of § 1, act of 10 February, 1813, 1 D. 292.

A part of this section forms art. CCCVIII, and the rest, not inserted in the text, is either repealed by the act of 26 February, 1839, p. 4, below, or is but a repetition of the provision of section 3, art. 4 of the Constitution, art. CCCIV, in the text.

²¹ The act of 26 February, 1839, p. 4, increasing the number of judges, declares—

"That hereafter the supreme court of the state of Louisiana shall be composed of five judges, to be appointed according to the constitution of the state."

²² Part of § 27, act of 10 February, 1813, 1 D. 296.

²³ Part of § 1, act of 10 February, 1813, 1 D. 292.

²⁴ § 2, act 23 March, 1822, 1 D. 307.

²⁵ The parishes included between brackets have been formed out of those named in the original act, since its passage; they remain attached to the district to which they belonged previously to being erected into separate parishes.

ishes of St. Landry, St. Martin, St. Mary [and Lafayette],²⁶ on which appeals are, or may be taken, shall be returnable to the supreme court sitting at Opelousas, in the same manner as is already provided for by law.

ART. CCCX.²⁷ Each and every year hereafter the court of appeals for the western district shall commence its session at the town of Opelousas, and parish of St. Landry, on the [fourth]²⁸ monday of August, and at the town of Alexandria, in the parish of Rapides, on the [first monday of October].²⁹

ART. CCCXI.³⁰ It shall be the duty of the clerks of the supreme court in the western district, in case neither of the judges of the said courts should appear at their respective court houses, on the day prescribed by the preceding [article] for the commencement of the sessions of said court at Opelousas or Alexandria, to adjourn said court, from day to day, until one or more of the judges arrive: provided, that the court shall not be adjourned, at either place, for more than twenty consecutive days.

ART. CCCXII.³¹ The salaries of the judges of the supreme court shall be paid to them quarterly, by the state treasurer, on their respective receipts.

ART. CCCXIII.³² Whenever any of the judges of the supreme court shall absent himself from the bench while the court is sitting, for any other cause than that of sickness, a deduction shall be made on the salary of said judge at the rate

²⁶ See last note.

²⁷ § 1, act 23 March, 1822, 1 D. 306.

²⁸ Changed to the *fourth* monday by § 1, act 18 February, 1825, 1 D. 308.

²⁹ Changed to *first monday of October* by § 1, act 18 February, 1825, 1 D. 308.

³⁰ § 2, act of 18 February, 1825, 1 D. 308.

³¹ Part of § 16, act of 26 March, 1813, 1 D. 301.

³² Part of § 5, *ibid.* 298.

of twenty-five dollars per each day of such absence ; and the clerks of the supreme court of appeals shall annually, on the first monday of January, transmit to the legislature a statement of the number of days any of the judges shall have been absent from the bench while the court was in session, as also the cause of such absence.³³

ART. CCCXIV.³⁴ The supreme court shall have authority to fine their officers for neglect of duty, in a sum not exceeding fifty dollars for each default.

ART. CCCXV.³⁵ The clerks of the several courts shall be removeable for breach of good behavior, by the court of appeals only, who shall be judge of the fact as well as of the law.³⁶

ART. CCCXVI.³⁷ Whenever any clerk of any district, parish, or criminal court, now existing, or hereafter to be cre-

³³ The part of this section, not inserted in the text, relates to the judges of the district courts, and will be found in a subsequent part of this chapter, art. CCCXLV.

³⁴ Part of § 17, act of 10 February, 1813, 1 D. 295.

³⁵ Constitution of Louisiana, art. 4, section 10.

³⁶ The 1st section of an act of 20 March, 1813, 1 D. 18, contains the following provision—"there shall also be appointed as many notaries public as may be deemed necessary, who shall remain in office during good behavior, but may be suspended by the supreme court until the next meeting of the legislature, whenever, after a summary inquiry before said court, it shall appear that there exists just cause of reproach against their conduct."

This act is palpably unconstitutional, and having been pronounced so by the supreme court of the state, is not inserted in the text.

In the cases of *Pain v. Plicque, &c.*, 10 *La. Rep.* 318, and *Robouam's heirs v. Robouam's ex'r.*, 12 *La. Rep.* 78, the supreme court declared their opinion of this law. In the latter case, the court said—"the legislature had not the right of vesting such power in us, as it could not be exercised without citing and hearing the notary, contradictorily with the prosecutor for the state, and passing judgment on him, which would have been an act of *original* jurisdiction, violating the constitution which provides that our jurisdiction shall be *appellate only*."

³⁷ § 1, act of 17 February, 1821, 1 D. 218.

ated within this state, shall be guilty of any malfeasance or misfeasance in the discharge of the duties of his office, it shall be lawful for the person or persons who shall be aggrieved thereby, or any other persons, to complain to the supreme court, by petition, setting forth the nature of the charge against the said clerk, and the facts upon which the same is founded.

ART. CCCXVII.³⁸ It shall be the duty of the said supreme court, upon the presentation of any such petition, to cause the said clerk to be cited to appear and answer to the same, on a day to be by the said court assigned and named in the citation, and, upon the appearance of such clerk, to proceed to hear and determine the matters alleged against him in the said petition.

ART. CCCXVIII.³⁹ If, upon hearing all the proofs to be exhibited by the parties, the said supreme court should be of opinion that the said clerk had been guilty of any act which, in the opinion of said court, ought to disqualify him from holding his said office of clerk, then, and in that case, the said court shall proceed to pronounce judgment to that effect, and the said clerk shall be accordingly removed from office.

ART. CCCXIX.⁴⁰ When any judgment shall be pronounced by the said supreme court on any complaint as aforesaid, a copy thereof shall be immediately transmitted by the clerk of the said supreme court, certified according to law, to the judge of the court of which the person complained of was clerk, and upon the receipt thereof, the said judge, if the same be a judgment of removal, shall proceed to appoint another clerk; provided, that the same person so removed shall not be again appointed; and if the same shall be a judgment of acquittal, the said clerk shall be restored to the exercise of his functions as clerk aforesaid.

³⁸ § 2, act of 17 February, 1821, 1 D. 218.

³⁹ § 3, *ibid.*

⁴⁰ § 4, *ibid.*

ART. CCCXX.⁴¹ If any clerk, as aforesaid, shall fail to appear and answer to any citation from the supreme court, as aforesaid, due proof being made of the service thereof, or shall not show cause to the satisfaction of the said supreme court why he does not so appear, it shall be the duty of the said supreme court to pass judgment of removal from office against the said clerk ; and upon the receipt of a certified copy of said judgment as aforesaid, it shall be the duty of the judge of the court of which the delinquent was clerk, to proceed to the appointment of another clerk as aforesaid.

ART. CCCXXI.⁴² Whenever any such petition shall be presented to the supreme court, the said court, or any judge thereof, if the same be not in session, may, if the facts set forth in the said petition, and if the *prima facie* evidence exhibited in support of them, in the opinion of the said court or judge, be such as to make it necessary to the safety of the records of the court of which the person complained of is clerk, or absolutely necessary to their purity, and the proper administration of the duties of the said office of clerk, then the said court, if in session, shall make an order, or the judge aforesaid, if the said court be not in session, shall endorse an order on the petition presented to him, that the said clerk be immediately suspended from the said office ; and, upon the exhibition of the said order to the judge of the court of which the person complained of was clerk, it shall be his duty to appoint a clerk *pro tempore*, who shall execute the duties of said office until the said complaint shall be finally heard and disposed of ; and if the said clerk be acquitted as aforesaid, he shall be restored to his said office, but if otherwise, then a new clerk shall be appointed.

ART. CCCXXII.⁴³ Whenever any complaint may be

⁴¹ § 5, act 17 February, 1821, 1 D. 219.

⁴² § 6, *ibid.*

⁴³ § 7, *ibid.*

made, in the manner already provided for, against the clerk of the supreme court, it shall be the duty of the court to appoint a day for the hearing of the evidence, when the court shall give such judgment as may be proper; and in the mean time the said court, or any one judge when it is not in session, may suspend the clerk, and appoint another *pro tempore*, when the nature of the charges may, in their opinion, authorize the measure.

ART. CCCXXIII.⁴⁴ Every witness who shall hereafter attend, upon a summons from the supreme court, to testify upon the trial of a clerk before said court, is hereby allowed [⁴⁵the sum of two dollars for every twenty miles he shall necessarily travel in going to and returning from said place, and the like amount for every day he shall so attend], to be paid by the state treasurer upon a warrant signed by two of the judges, and attested by the clerk of said court.

ART. CCCXXIV.⁴⁶ It shall be the duty of the supreme court of this state to render their judgment, as soon as possible after the trial of the causes; and the judgments and decrees rendered by the supreme court, shall be rendered in writing, and spread at full length on the records of the court; and in no case they shall delay more than fifteen days the pronouncing of them.

ART. CCCXXV.⁴⁷ The records of the causes decided at Alexandria shall be kept by the clerk of the said court, whose duty it shall be to reside, and keep his office at that place; and

⁴⁴ § 10, act of 11 April, 1826, 1 D. 537.

⁴⁵ Part of § 9 of same act. The 10th section, in the text, enacts, that a like compensation to that granted to witnesses attending before the Senate or House of Representatives by the previous (the ninth) section, shall be allowed; the words of the original act are omitted, and those of the section referred to inserted, in the text.

⁴⁶ Part of § 4, act of 26 March, 1813, 1 D. 298. The rest of this section relates to the District Courts, and forms art. CCCL, *post*.

⁴⁷ Part of § 3, act of 23 March, 1822, 1 D. 307.

the records of the causes determined at Opelousas, shall be kept by a clerk, to be appointed by the said court, at that place, whose duty it shall also be to reside in the town of Opelousas.

ART. CCCXXVI.⁴⁸ The clerk of the supreme court shall be entitled to demand and receive the following fees, and no more :

For entering a cause on the docket,	-	-	-	\$1 00
For entering appearance of parties,	-	-	-	1 00
For recording motion in the court,	-	-	-	1 00
For filing and registering record from an inferior court,	2	00	⁴⁹	

ART. CCCXXVII.⁵⁰ The clerk of the supreme court for the eastern district, shall be, and he is hereby allowed the sum of five hundred dollars per annum, to be paid quarterly, on the warrant of any one of the judges of said court, out of any moneys in the treasury not otherwise appropriated.

ART. CCCXXVIII.⁵¹ The [clerks] of the supreme court for the western district shall be entitled to receive, in lieu of the *per diem* allowance now granted by law, an annual sum of [two hundred and fifty dollars each⁵²], to be paid on a warrant of any one of the judges.

⁴⁸ Part of § 12, act of 7 March, 1814, 1 D. 472.

⁴⁹ The last clause of this section, here omitted, is virtually repealed by sections 2 and 3 of the act of 17 February, 1821, 1 D. 306. The 9th section of the act of 26 March, 1813, 1 D. 300, authorized the clerk of the Supreme Court to charge "ten dollars for any certificate of the admission of attorneys and counsellors at law, and for his other services double the fees which are or may be established and allowed to the clerks of the district courts."

The 11th section of the same act provided, that "for every other service rendered by the clerk of the supreme court, a reasonable compensation shall be made by the party, and determined by the court, according to the nature and equity of the case, having regard to the fees herein allowed."

These provisions must be considered as repealed by the subsequent act of 1814, in the text, which declares that the clerk of the supreme court shall receive the fees therein specified and no more—*et pas d'autres*, not *pas d'avantage*, says the french translation.

⁵⁰ Part of § 2, act of 17 February, 1821, 1 D. 306.

⁵¹ § 3, *ibid.*

⁵² See section 3 of the act of 23 March, 1822, 1 D. 307. This act provided

ART. CCCXXIX.⁵³ A sum of one hundred and fifty dollars is hereby appropriated and shall be annually paid to the sheriff [of the parish of Orleans], or to his successors in office, to be by him employed, under the direction of said court, to purchase whatever [may] be necessary for the use and accommodation of the supreme court.

ART. CCCXXX.⁵⁴ The clerks of the supreme court for the western district shall be entitled to office rent in the discretion of said court, not exceeding to each the sum of one hundred and twenty dollars, to be paid out of any money in the treasury not otherwise appropriated, upon a warrant of a majority of the judges of said court.

DISTRICT COURTS.

ART. CCCXXXI.⁵⁵ The state of Louisiana shall be and the same is hereby divided into seven districts, which shall be formed in manner following, to wit : The parishes of New-Orleans, [⁵⁶Jefferson], St. Bernard, Plaquemine, St. Charles, and St. John the Baptist, shall constitute and be called the first district ; the parishes of St. Jacques,⁵⁷ Ascension, Assumption, Lafourche Interior, [and ⁵⁸Terrebonne], shall constitute and be called the second district ; the parishes of Feliciana, and East Baton Rouge, shall constitute and be called the third district ; the parishes of Iberville, West Baton Rouge, and Pointe Coupee, shall constitute and be called the fourth district ; the par-

that two hundred and fifty dollars each should be allowed to two clerks for the western district, instead of three hundred dollars to one, as was provided by the act in the text.

⁵³ Part of § 1, act of 21 February, 1817, 1 D. 305.

⁵⁴ § 2, act 25 February, 1824, 2 D. 533.

⁵⁵ § 3, act 10 February, 1813, 1 D. 293.

⁵⁶ Taken from the county of Orleans, and created a parish, by the act of 11 February, 1825, 2 D. 195.

⁵⁷ See note 65, *post*.

⁵⁸ Formed out of the county of Lafourche, and annexed to the second district, by the act of 22 March, 1822, 2 D. 219.

ishes of St. Mary, St. Martin, St. Landry, [⁵⁹Lafayette, and ⁶⁰Calcasieu], shall constitute and be called the fifth district; the parishes of Avoyelles, and Rapides, shall constitute and be called the fifth district; the parishes of Avoyelles, and Rapides shall constitute and be called the sixth district; and the parishes of Ouachitta, [⁶¹Catahoula, ⁶²Caldwell, and ⁶³Union], shall constitute and be called the seventh district.

ART. CCCXXXII.⁶⁴ The parishes of Washington, St. Tammany, St. Helena, [and ⁶⁵Livingston, shall] form and constitute a separate and independent judicial district, to be known and called the eighth judicial district.⁶⁶

⁵⁹ Formed out of the parish of St. Martin, and annexed to the fifth district, by act of 17 January, 1823, 2 D. 197.

⁶⁰ Formed from the parish of St. Landry, and annexed to the fifth district, by act of 24 March, 1840, p. 72.

⁶¹ Annexed to the seventh district by act 9 February, 1820, 1 D. 314.

⁶² Formed from the parishes of Ouachitta and Catahoula, and annexed to the seventh district, by act of 6 March, 1838, p. 38.

⁶³ Formed from the parish of Ouachitta, and annexed to the seventh district, by act of 13 March, 1839, p. 22.

⁶⁴ § 1, act 15 February, 1822, 1 D. 315.

⁶⁵ Formed from the parish of St. Helena, by act of 10 February, 1832, p. 20.

An act of 4 March, 1841, p. 38, provides—

Section 1. That that portion of territory west of the river Amite, and bounded by said river, White Oak Grove, and lake Maurepas, be and the same is hereby attached to the parish of Livingston, so far as judicial proceedings are to apply and no farther; and that the citizens or inhabitants of said territory have and enjoy all and singular the rights, privileges, &c. in judicial proceedings, as if they were actual residents of said parish of Livingston; and that the parish, probate, and district courts of said parish shall have original and appellate jurisdiction over the said territory the same as over the parish of Livingston.

⁶⁶ The act of 15 February, 1822, further provides, 1 D. 316—

Section 6. The jury in the several parishes [composing] the eighth judicial district, shall be drawn under the same instructions, and in the same mode and form as [in] the other judicial districts of this state; and all and every thing necessary for the organizing the said court and jury, shall be done in the eighth judicial district, in the same manner and form as is provided by law for the other judicial districts of this state.

ART. CCCXXXIII.⁶⁷ The parishes of Concordia, Madison, and Carroll, [shall] form and constitute a separate and independent judicial district, to be known and called the ninth judicial district.

ART. CCCXXXIV.⁶⁸ The parishes of Nachitoches, Caddo, and Clairborne, [shall] form a separate and independent judicial district, to be styled the tenth judicial district of the state of Louisiana.

ART. CCCXXXV.⁶⁹ Nothing in the existing statutes of this state contained, respecting the boundaries of the several parishes into which the state is divided, shall, when the Mississippi river, or any other river, bayou, or other navigable water course or lake, is said to be the boundary of any of said parishes, be so construed as to prevent the jurisdiction of said parish, or parishes, from extending to the very middle or centre of said Mississippi river, bayou, or other navigable water course, or lake ; nor shall the same be so construed as to prevent the district court within the jurisdiction of which such parish or parishes are situated, from taking cognizance of any crime or offences that may have been committed, or may in future be committed, within the limits of any of said parishes as herein more clearly defined.

ART. CCCXXXVI.⁷⁰ When any felony, crime, or misdemeanor shall be committed on the boundary or boundaries of two or more parishes, or within one hundred yards of any such boundary or boundaries as explained and more particularly defined in the foregoing [article], or within one hundred yards of any other boundary or boundaries, or shall be begun in one parish and completed in another, every felony, crime, or misdemeanor may be dealt with, inquired of, tried, determined,

⁶⁷ § 1, act 5 March, 1838, p. 30.

⁶⁸ § 1, act 9 March, 1840, p. 32.

⁶⁹ § 1, act of 9 March, 1836, p. 103.

⁷⁰ § 2, *ibid.*

and punished in any of the said parishes, in the same manner as if it had been actually and wholly committed therein.

ART. CCCXXXVII.⁷¹ There shall be a court in each parish to be held, except for the parishes composing the first district, at such times as shall be hereafter provided, to consist of one judge, learned in the law, for each district, who shall reside in the same; and the said judges shall receive annually, and in quarter yearly payments, [⁷²the sum of three thousand dollars each, ⁷³to be paid to them by the state treasurer, on their respective receipts.⁷⁴]

ART. CCCXXXVIII.⁷⁵ The several district courts of the state, except the first, shall hold their sessions only twice a year in each parish.

- ART. CCCXXXIX.⁷⁶ The courts in the other districts [than the first] shall hold their sessions at the seat of justice in each parish, on the following days of every year, to wit: in the

[*Second District.* ⁷⁷In the parish of *Ascension*, the fourth

⁷¹ Part of § 4, act 10 February, 1813, 1 D, 293.

⁷² The salaries of the judges of the district courts, out of the first district, as originally fixed by this act, and the act of 15 February, 1822, § 3, 1 D. 316, were unequal, the judges of the second, fourth, and eighth districts receiving fifteen hundred dollars, and those of the third, fifth, sixth, and seventh, two thousand each. The salaries of the former were raised to two thousand dollars by the act of 17 March, 1823, p. 46. These salaries were by the subsequent acts of 22 March, 1826, § 1, 1 D. 309, and of the 11 March, 1837, p. 76, all raised to three thousand dollars. The salaries of the judges of the district courts of the ninth and tenth districts were made the same with those of the other districts, by the acts of 5 March, 1838, p. 30, and of the 9 March, 1840, p. 32, creating those districts.

⁷³ Part of § 16, act of 26 March, 1813, 1 D. 301.

⁷⁴ The 26th section of the act of 10 February, 1813, 1 D. 296, provides, that no judge of the district courts "shall be permitted to practise as an attorney or counsellor at law, in any of the courts of law in this state."

⁷⁵ Part of § 1, act 28 January, 1817, 1 D. 322.

⁷⁶ Part of § 5, act of 10 February, 1813, 1 D. 294.

⁷⁷ § 3, act 14 March, 1839, p. 58.

monday of May, and the fourth monday of October ; ⁷⁸in the parish of *Assumption*, the third monday of May, and the third monday of October ; ⁷⁹in the parish of *Lafourche Interior*, the first monday of May, and the first monday of October ; ⁸⁰in the parish of *St. James*, the first monday of June, and the first monday of November ; ⁸¹in the parish of *Terrebonne*, the fourth monday of April, and third monday of September :

Third District. ⁸²In the parish of *East Baton Rouge*, the first monday of June, and the first monday of January ; ⁸³in the parish of *East Feliciana*, the first monday of April, and the first monday of November ; ⁸⁴in the parish of *West Feliciana*, the first monday of May, and the first monday of December :

Fourth District. ⁸⁵In the parish of *West Baton Rouge*, the first monday of May, and the first monday of November ; in the parish of *Iberville*,⁸⁶ the second monday of April, ⁸⁷and fourth monday of September ; ⁸⁸in the parish of *Pointe Coupee* the third monday of May, and the third monday of November :

Fifth District. ⁸⁹In the parish of *Calcasieu*, the third monday of June, and the third monday of December ; ⁹⁰in the parish of *Lafayette*, the second monday of May, and the second monday of November ; ⁹¹in the parish of *St. Landry*, the fourth monday of May, and the fourth monday of November ; ⁹²in the parish of *St. Martin*, the fourth monday of April, and

⁷⁸ § 3, act 14 March, 1839, p. 58.

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ *ibid.*

⁸² § 1, act of 4 February, 1836, p. 46.

⁸³ *ibid.*

⁸⁴ *ibid.*

⁸⁵ § 5, act of 27 March, 1832, p. 114.

⁸⁶ § 3, act of 16 March, 1835, p. 120.

⁸⁷ § 1, act of 10 March, 1834, p. 128.

⁸⁸ § 5, act of 27 March, 1832, p. 114.

⁸⁹ § 7, act of 24 March, 1840, p. 73.

⁹⁰ § 2, act of 13 February, 1833, p. 21.

⁹¹ *ibid.*

⁹² *ibid.*

the fourth monday of October ; ⁹²in the parish of *St. Mary*, the first monday of April, and the first monday of October :

Sixth District. ⁹⁴In the parish of *Avoyelles*, the third monday of March, and the third monday of October ; ⁹⁵in the parish of *Rapides*, the first monday in May, and fourth monday in November :

Seventh District. ⁹⁶In the parish of *Caldwell*, the first monday of April, and the first monday of October ; ⁹⁷in the parish of *Catahoula*, the third monday of March, and the third monday of September ; ⁹⁸in the parish of *Ouachitta*, the third monday of April, and the third monday of October ; ⁹⁹in the parish of *Union*, the first monday of May, and the first monday of November :

Eighth District. ¹⁰⁰In the parish of *Livingston*, the first monday of April, and the first monday of October ; ¹⁰¹in the parish of *St. Helena*, the third monday of May, and the third monday of October ; ¹⁰²in the parish of *St. Tammany*, the first monday of May, and the first monday of November ; ¹⁰³in the parish of *Washington*, the third monday of April, and the third monday of November :

Ninth District. ¹⁰⁴In the parish of *Carroll*, the first monday of May, and the first monday of November ; ¹⁰⁵in the parish of *Concordia*, the first monday of June, and the first monday of December ; ¹⁰⁶in the parish of *Madison*, the third monday of May, and the third monday of November :

⁹² § 2, act of 13 February, 1833, p. 21.

⁹⁴ act of 12 March, 1838, p. 90.

⁹⁵ § 1, act of 14 March, 1839, p. 58.

⁹⁶ § 4, *ibid.*, 60.

⁹⁷ § 1, act of 20 March, 1840, p. 70.

⁹⁸ § 4, act of 14 March, 1839, p. 60.

⁹⁹ *ibid.*

¹⁰⁰ § 1, act 2 March, 1841, p. 37.

¹⁰¹ *ibid.*

¹⁰² *ibid.*

¹⁰³ *ibid.*

¹⁰⁴ § 1, act of 18 March, 1839, p. 108.

¹⁰⁵ *ibid.*

¹⁰⁶ *ibid.*

Tenth District. ¹⁰⁷In the parish of *Caddo*, the first monday of May, and the first monday of December ; ¹⁰⁸in the parish of *Claiborne*, the third monday of February, and third monday of September ; ¹⁰⁹in the parish of *Natchitoches*, the first monday of April, and the first monday of November.]

ART. CCCXL.¹¹⁰ The state of Louisiana shall be divided into two circuit divisions, to be known by the denomination of eastern and western divisions ; the eastern division shall include the second, third, fourth, and eighth judicial districts, [¹¹¹and be subdivided into two circuit divisions, the third and the eighth districts forming one division, and the fourth and the second districts forming another] ; the western division shall include the fifth, sixth, seventh, [¹¹²ninth, and tenth] judicial districts.

ART. CCCXLI.¹¹³ The judges [of the fourth and second districts] shall proceed to change districts, and so continue alter-

¹⁰⁷ § 2, act of 2 March, 1841, p. 37.

¹⁰⁸ § 2, act of 9 March, 1840, p. 32.

¹⁰⁹ *ibid.*

¹¹⁰ Part of § 1, act of 22 March, 1826, 1 D. 309.

¹¹¹ Part of § 1, act of 20 February, 1835, p. 28.

¹¹² The ninth district was formed by the act of 5 March, 1838, p. 30, from parishes forming a part of the seventh district at the time of the passage of the act in the text ; and the tenth district, by the act of 9 March, 1840, p. 32, from those forming a part of the sixth district.

The act of 1826, in the text, was repealed by an act of 29 March, 1833, § 1, p. 93, and revived by a subsequent act of 20 February, 1835, p. 28, with an amendment, providing, that "the eastern division of the state shall be subdivided into two circuit divisions, the third and the eighth districts forming one division, and the fourth and the second districts forming another ; and that in those separate divisions, the judges shall proceed to change district, and so continue alternately to hold the sessions of the courts in the one and the other district within the separate division to which they belong."

An act of 12 March, 1838, § 1, p. 86, repealed "so much of the act passed March 22, 1826, as established an interchange between the district judges of the 3d and 8th judicial districts." Art. CCCXLI contains the only provisions now in force in regard to the change of districts.

¹¹³ Part of § 1, act of 20 February, 1835, p. 28.

nately to hold the sessions of the courts in the one and the other district within the separate division to which they belong. ¹¹⁴The judge of the sixth district shall hold the approaching spring sessions in the seventh district, the fall session in the sixth district, and the spring session in eighteen hundred and thirty-seven, in the fifth district; the judge of the seventh district shall hold the approaching spring session in the sixth district, the fall session in the fifth district, and the spring session in eighteen hundred and thirty-seven, in the seventh district; and the judge of the fifth district shall hold the approaching spring session in the fifth district, the fall session in the seventh district, and the spring session in eighteen hundred and thirty-seven, in the sixth district; and they shall interchange in the same order forever.

ART. CCCXLII.¹¹⁵ The said district judges shall have power to grant all orders, that are necessary by law to be granted out of term time, in any district of the division to which they belong, whether they are resident therein at the time, or not; and nothing in [the two last articles] shall render it necessary for the said judges to change their present residence.

ART. CCCXLIII.¹¹⁶ A district court, in case of inability of the judge to attend at the commencement of a session, may, by virtue of a written order of the said judge, directed to the sheriff, be adjourned by the said sheriff to such day, antecedent to the next stated session of the said court, as in the said order shall be appointed; and in case of the death or resignation of the said judge, and his vacancy not being supplied, all process and proceedings of whatsoever nature pending before the said court, shall be continued of course until the next stated session after the appointment and acceptance of the office by his successor.

¹¹⁴ Part of act of 23 February, 1836, p. 56.

¹¹⁵ § 2, act of 22 March, 1826, 1 D. 309. See note 112, *ante*.

¹¹⁶ Part of § 27, act 10 February, 1813, 1 D. 296.

ART. CCCXLIV.¹¹⁷ It shall not be lawful for any district judge to leave this state for such a space of time as will prevent them from holding their courts at the periods prescribed by [law] ; and if they should do so, they shall forfeit the one half of their yearly salary, for each court that shall not be held by reason of said absence.

ART. CCCXLV.¹¹⁸ The district judges shall be subject to suffer a deduction of one month of their salary, whenever any of the sessions of their courts shall have been postponed or adjourned for any other cause than that of sickness, or of physical impossibility to repair to the place where such session was to be holden ; [and] the clerks of the district courts shall annually, on the first monday of January, transmit to the legislature a certificate showing whether any of the sessions of their courts have been postponed for any other cause than sickness, or physical impossibility to repair to the place where such session was to be holden.¹¹⁹

ART. CCCXLVI.¹²⁰ The seat of justice, in each of the said parishes, shall be at such places as they are usually held, or that may hereafter be designated by law ; and each of the said courts shall sit until the business of each term be completed.

ART. CCCXLVII.¹²¹ The district courts shall have criminal jurisdiction in all cases of whatsoever nature.¹²²

¹¹⁷ § 25, act of 28 January, 1817, 1 D. 324.

¹¹⁸ Part of § 5, act 26 March, 1813, 1 D. 298.

¹¹⁹ The part of this section not inserted in the text, relates to the judges of the supreme court, and will be found in the preceding part of this chapter, art. CCCXIII, *ante*.

¹²⁰ § 6, act 10 February, 1813, 1 D. 294.

¹²¹ § 15, *ibid*.

¹²² The latter part of this section providing for special courts, between the regular sessions, for the more speedy trial of criminal cases, was virtually repealed by the first section of the act of 28 January, 1817, 1 D. 322, art. CCCXXVIII, *ante*.

ART. CCCXLVIII.¹²³ The proceedings of the said district courts in criminal cases, shall be governed by the acts of the territorial legislature, regulating the proceedings of the late [supreme¹²⁴] court of the territory of Orleans; and they shall have the same powers, when not inconsistent with [the act of 10 February, 1813, organizing the supreme court and establishing courts of inferior jurisdiction], which were granted to the said superior court by the said acts.

ART. CCCXLIX.¹²⁵ The said courts, and each of them, shall have the same power and authority to compel the attendance of witnesses in criminal, as in civil cases; ¹²⁶and shall have power to fine grand and petty jurors, to the same extent and under the same restrictions, for non-attendance in criminal as in civil cases.¹²⁷

ART. CCCL.¹²⁸ The district judges shall render their judgments in the shortest possible delay; and they shall never leave in suspense any decision in cases tried, when they shall close the sessions of their respective courts.

¹²³ § 16, act of 10 February, 1813, 1 D. 295.

¹²⁴ "Supreme" in the original act, by mistake for "*superior*." The french text reads "*cour supérieure*."

The 42nd section of the act for the punishment of crimes and misdemeanors, of 4 May, 1805, provided, 1 D. 372, that "the amount of all fines" imposed by the provisions of that act, should "be paid, when adjudged by any county court, into the treasury of such county for the use thereof, and when adjudged by the superior court, such fines shall be paid into the treasury of the county in which judgment shall be given, for the use of the government of this territory."

¹²⁵ § 50, act of 4 May, 1805, 1 D. 373.

¹²⁶ Part of § 51, *ibid*.

¹²⁷ The 50th, and the part of the 51st section of the act in the text, originally applied to the superior and county courts of the territory of Orleans; and were extended to the district courts by § 16 of the act of 10 February, 1813, 1 D. 295, art. CCCXLVIII.

¹²⁸ Part of § 4, act of 26 March, 1813, 1 D. 298.

ART. CCCLI.¹²⁹ All criminal prosecutions cognizable and prosecuted before the district courts, shall be at the expense of the state on warrants of the district judge; provided however, that no expense shall accrue to the state for the want of a jail in any parish, but any expense arising from such deficiency, shall be at the charge of the parish in which such prosecution may have arisen.

ART. CCCLII.¹³⁰ The district judges may, when they shall deem it necessary, appoint in each parish within their jurisdiction, an interpreter of the english and french languages, who shall take the oath required by law, and be entitled to the emoluments allowed by law for similar services.

ART. CCCLIII.¹³¹ The compensation of the interpreters shall be [two dollars¹³²] for each cause;¹³³ and the said interpreters shall moreover be entitled for any translation by them made by order of the court, or on application of either party, to twenty-five cents for each hundred words: provided however, that the said interpreters shall not be authorized to demand and receive any fees in any cause in which they shall not be employed.

¹²⁹ § 22, act 26 March, 1813, 1 D. 302.

¹³⁰ § 24, act of 10 February, 1813, 1 D. 296.

¹³¹ § 13, act of 28 March, 1813, 1 D. 468.

¹³² An act of 7 March, 1814, 1 D. 471, provides—

Section 11. In every parish where an interpreter of the french and english languages may be deemed necessary by the district judge, such interpreter shall receive the sum of two dollars for any suit entered on the docket of the district court, any law to the contrary notwithstanding, which fees shall be recovered as clerks' and sheriffs' fees are recoverable by the present act.

¹³³ The third section of the act of 23 March, 1822, 1 D. 328, provides, that "all acts imposing a translator's fee of two dollars, except in cases when that officer shall be actually employed, shall be, and the same are hereby repealed: provided however, that the courts of the first and fourth judicial districts be exempted from the provisions of this section."

ART. CCCLIV.¹³⁴ There shall be appointed in each parish, by the district judge, a clerk, who shall be sworn in the manner prescribed by the constitution, and whose duties and functions, until otherwise prescribed, shall be the same which were heretofore fulfilled by the clerks of the late superior court.¹³⁵

ART. CCCLV.¹³⁶ When any parish shall provide at the expense of such parish a good and sufficient office for the clerk of said parish, at the seat of justice thereof, it shall be the duty of the clerk to keep the office of both the district and parish courts at or within one mile of said seat of justice ; and any clerk who shall refuse to comply with the provisions of this [article], shall be fined at the discretion of either the district or parish judge, in any sum not exceeding ten dollars per month, for every month he may remain at any greater distance from said seat of justice.

ART. CCCLVI.¹³⁷ The clerks of the district courts of this

¹³⁴ Part of § 22, act of 10 February, 1813, 1 D. 295.

¹³⁵ The rest of this section prescribes the duties of the said clerks as clerks of the parish courts.

The 5th section of the act "allowing compensation to jurors" of 24 March, 1823, 1 D. 627, imposes a fine of one hundred dollars on any clerk who shall neglect to comply with certain provisions of that act.

An act of 28 January, 1817, 1 D. 325, provides—

Section 27. No deputy of any officer belonging to any of the courts of this state, shall be permitted to act as such, unless he is presented by the officer wishing to appoint such deputy to the district or parish judge of the parish for which the said officer is appointed, in open court, there to be accepted by the district or parish judge, and sworn as the law directs ; and the acceptance of the said deputy shall be recorded on the same day in the office of the clerks of the said parish or district court : provided however, that in case of emergency, it shall be lawful for any of the aforesaid officers to appoint a deputy *pro tempore*, to act only in the case which shall have necessitated such appointment.

See also § 2 of the act of 20 March, 1813, 1 D. 378, art. DLIII, for duty of clerk where a prisoner is sentenced to death.

¹³⁶ § 2, act of 5 March, 1814, 1 D. 216.

¹³⁷ § 1, act of 20 February, 1817, 1 D. 472.

state, except the clerk of the district court for the first judicial district, shall be allowed for their services in criminal prosecutions, and all *ex officio* services, the same fees which are allowed in civil cases; provided however, that the whole compensation of any clerk, for his services in criminal prosecutions, shall not exceed fifty dollars a year, [¹³⁸which allowance shall annually be made by the district court, and shall be paid out of the public moneys on the warrant of the judge.]

ART. CCCLVII.¹³⁹ The several clerks throughout the state shall be entitled to demand and receive the following fees, and no more, to wit :

Copying all instruments of writing not otherwise provided for, for each hundred words, - - -	12½
Issuing <i>feri facias</i> , with seal, - - -	1 50
Issuing writ of <i>habeas corpus</i> , with seal, - - -	1 00
Issuing <i>subpœna duces tecum</i> , with seal - - -	1 00
Issuing a <i>subpœna</i> for witnesses, with seal, - - -	25
Issuing summons for witnesses with seal, each - - -	75
Issuing notice of judgment, with seal, - - -	25
Every continuance, - - - - -	25
Issuing citation of appeal, with seal and certificate, - - -	50
Copy of said citation, with seal and certificate, - - -	50
For issuing attachment to bring persons into court, - - -	50
Issuing a <i>venire facias</i> , - - - - -	50
Swearing jury, - - - - -	50
Swearing witnesses, each, - - - - -	6¼
Entering final judgment, - - - - -	1 00
For every order of court not otherwise provided for, - - -	25

¹³⁸ Part of § 12, act of 28 March, 1813, 1 D. 468, establishing an explicit fee bill. The act of 1817 in the text, supplementary to this act, provides that the compensation of the clerks for their services in criminal prosecutions shall "be paid in the manner provided for in the act to which this is a supplement."

¹³⁹ Part of § 1, act of 28 March, 1813, 1 D. 462. So much of this section as fixes the fees of clerks for services which can only be rendered in civil cases, is not inserted in the text.

Copy of the same and seal when required, - - -	50
Filing and registering return on all writs, - - -	12½
For every search, - - - - -	25
Taxing costs, certifying and filing the same, and giving certificate thereof if required, - - -	1 00
Setting cause for trial, and calling the same, - - -	25
Affixing the seal of court to all other records or docu- ments but those herein specified, when required, -	50
Every necessary certificate, - - - - -	25
Taking and filing bond, - - - - -	1 00
Recording and registering deed of conveyance, for property sold and transferred by sheriff, - - -	1 00
Entering satisfaction of judgment, - - - - -	25

CRIMINAL COURT OF THE FIRST DISTRICT.

ART. CCCLVIII.¹⁴⁰ The criminal court of the city of New-Orleans shall henceforth have original and exclusive cognizance of, and shall hear and determine according to law, all prosecutions upon all crimes, misdemeanors, and offences whatever, which have been or which shall be committed by any free person, or persons, within the limits of the first judicial district.¹⁴¹

¹⁴⁰ § 1, act 3 March, 1819, 1 D. 333.

¹⁴¹ The act of 5 March, 1841, authorizing the establishment of work houses, &c., in the city of New Orleans, after providing that nothing "therein contained shall be construed to deprive any person of the trial by jury when it may be prayed for," declares, p. 47—

Section 7. That in any case where a person committed under this act shall claim a trial by jury, it shall be lawful for the criminal court of the first district to take cognizance of the same, and to afford a trial as provided by law for other criminal offences; but nothing in this act shall be construed as meaning that any such person shall be released in the meantime from commitment in the work house, prison, or house of refuge aforesaid, until acquitted by the jury, or until the expiration of the term of commitment.

The seventh section of the act of 12 March, 1818, 1 D. 330, establishing the criminal court of New Orleans, provides that "the said court shall have its own seal." So much of that section as relates to the jurisdiction of the criminal court of New Orleans is virtually repealed by the section of the act of

ART. CCCLIX.¹⁴² The said court shall have and exercise the same authority, and perform the same duties and functions in and respecting all criminal cases arising within any part of the said district, which they now have or are bound to perform in such cases arising within the limits of the city of New Orleans.

ART. CCCLX.¹⁴³ The said court shall, be known and called [the] *Criminal Court of the first district*.

ART. CCCLXI.¹⁴⁴ The criminal court of the first district shall have exclusive jurisdiction in all cases where it may be necessary to enforce the payment of any sum due to the state, for the forfeiture of bonds and recognizances in criminal prosecutions.¹⁴⁵ The said criminal court of the first district shall have all the right and powers belonging to courts of civil jurisdiction, to cause the judgments which it may render to be put into execution, in all cases specified in the present [article]; provided, that in all cases where the amount of the payment shall exceed the sum of three hundred dollars, the condemned party may appeal therefrom to the supreme court of the state, in conformity with the provisions of the existing laws.

ART. CCCLXII.¹⁴⁶ The criminal court of the first district shall have jurisdiction of all suits and prosecutions on penal

1819, in the text. So far as it relates to the duties of the attorney general, it merely re-enacted the provisions of the 21st section of the act of 1813, art. CCCXXII, *post*.

¹⁴² § 2, act 3 March, 1819, 1 D. 333.

¹⁴³ § 3, act 16 January, 1821, 1 D. 335.

¹⁴⁴ § 1, act 16 March, 1832, p. 98.

¹⁴⁵ See the provisions of the act of 11 March, 1837, arts. CCCCLXXIII, IV, & V.

¹⁴⁶ § 2, act 16 March, 1832, p. 98. In this act as published by authority, the word "resisting" is substituted by mistake for "reserving." The error is corrected in the text.

statutes, and all suits and prosecutions instituted in behalf of the state for any violation of a public law, [reserving] to the parties the right of appeal to the supreme court in all cases in which an appeal is allowed by law.

ART. CCCLXIII.¹⁴⁷ The said court shall consist of one judge learned in the law, to be appointed by the governor, by and with the advice and consent of the senate, who shall receive an annual salary of [five¹⁴⁸] thousand dollars, payable quarterly, out of any moneys not otherwise appropriated: provided, that the said judge shall be and is hereby prohibited from practising law in any of the courts of this state, either in civil or criminal cases.

ART. CCCLXIV.¹⁴⁹ In case of the absence, death, resignation, interest in a cause, or recusation in the cases provided for by law, of the judge of the first district, or of the judge of the criminal court of the first district, or of the judge of the parish court in and for the parish and city of New Orleans, or of the judge of the court of probates in and for the parish and city of New Orleans, [¹⁵⁰or of the judge of the commercial

¹⁴⁷ § 2, act 16 January, 1821, 1 D. 335.

¹⁴⁸ Raised from four to five thousand dollars, by act of 14 March, 1839, § 13, p. 50. This act, however, provides a mode of payment for the additional thousand dollars, different from the provision in the text for the original salary. It provides—

Section 13. That the salary of the judge of the criminal court of the parish of Orleans shall be increased one thousand dollars, to be paid on his warrant yearly, and quarterly, by the parish treasurer of the parish of Orleans, out of the surplus sums arising from taxes on suits as aforesaid, which may remain, and are to be applied as aforesaid, to the use of the parish of Orleans, after all other expenses and previous salaries shall have been paid.

¹⁴⁹ § 3, act 9 March, 1836, p. 104.

¹⁵⁰ The act of 14 March, 1839, establishing the commercial court of New Orleans, provides, p. 42.

Section 2. That the judge of said court, and the judges of the district, parish, probate, and criminal courts in the parish of Orleans, may sit and act interchangeably in case of death, resignation, absence, or vacancy, as is now provided by law, in relation to the four last mentioned courts.

court of New Orleans], it shall be lawful for, and is hereby made the duty of either of the other judges, to preside in the interim over the court of which the judge shall be absent, sick, deceased, or shall have resigned, or be interested in the case to be decided, or challenged in the cases provided by law; and, whilst presiding, to discharge each and all the duties which the judge of said court could discharge, if present.¹⁵¹

ART. CCCLXV.¹⁵² The criminal court of the first district of the state of Louisiana shall hold [its] sessions, as provided for by the existing laws, during the months of November, December, January, February, March, April, May, and June; and may adjourn during the months of July, August, September, and October.

ART. CCCLXVI.¹⁵³ The criminal court for the first district shall open its sessions in the city of New Orleans on the first monday in every month, instead of every thursday in the week.¹⁵⁴

ART. CCCLXVII.¹⁵⁵ No proceedings whatever of the said court shall abate, become void, or be discontinued by reason of the said court not holding its session on the day appointed for the same.

ART. CCCLXVIII.¹⁵⁶ The said court shall hold its sessions in the city of New-Orleans, as at present,¹⁵⁷ and shall con-

¹⁵¹ The first section of the act of 22 March, 1831, p. 84, is virtually repealed by the article in the text.

¹⁵² Part of § 1, act of 9 April, 1824, 1 D. 319.

¹⁵³ Part of § 1, act of 17 February, 1821, 1 D. 335.

¹⁵⁴ Unless adjourned as provided for in art. CCCLXV.

¹⁵⁵ Part of § 4, act of 12 March, 1818, 1 D. 330. The rest of this section is virtually repealed by the act of 16 January 1821, 1 D. 335.

¹⁵⁶ Part of § 4, act of 3 March, 1819, 1 D. 334.

¹⁵⁷ An act of 17 February, 1821, 1 D. 336, provides—

Section 6. The sheriff of the said parish shall procure a suitable house for

tinue in session each term, until all the causes ready for trial before [it] shall have been tried.

ART. CCCLXIX.¹⁵⁸ All prosecutions in the said court for capital or infamous crimes, or for offences punishable by imprisonment at hard labor [¹⁵⁹for more than two years], shall be by indictment; and prosecutions for all other offences, may be by information: provided, that the leave of the said court to file such information shall have been first obtained.

ART. CCCLXX.¹⁶⁰ The said court shall have power to make all requisite rules for regulating its proceedings, provided that such rules be not inconsistent with any law of this state; and to issue all writs, and make all orders which may be proper and requisite for the exercise of its jurisdiction, and to fine any of its officers for neglect of duty in a sum not exceeding fifty dollars for each default, and to punish all contempts by fine not exceeding fifty dollars for any one offence, and also by imprisonment not exceeding ten days.

the holding of the sessions of the said court, and the rents therefor, not exceeding the sum of one thousand dollars, shall be paid out of the treasury, and be reimbursable out of the tax for that purpose, [levied] upon the first district as heretofore provided by law.

See the acts of 6 March, 1819, 1 D. 325, and of 27 February, 1836, p. 68, for the mode of defraying the rent of the rooms occupied by the court.

An act of the 10 February, 1841, provides, p. 17—

Section 15. That the supreme, district, parish, commercial, and probate, and criminal courts shall continue to be located in the present court house, until a different location is pointed out by law; but in case of the destruction of said court house by fire or otherwise, then said courts shall be temporarily held in such place or places as the majority of the judges thereof may determine, but always as near to each other as practicable.

¹⁵⁸ § 9, act 12 March, 1818, 1 D. 331.

¹⁵⁹ An act of the 8th of March, 1841, p. 59, provides, "that in all criminal prosecutions in the criminal court of the first district, for crimes and offences punishable by not more than two years hard labor, the proceedings may be by information."

¹⁶⁰ § 11, act 12 March, 1818, 1 D. 331. See arts. LIX, LX, as to contempts by any attorney or counsellor at law.

ART. CCCLXXI.¹⁶¹ Every white male person, residing in the parish of Orleans, above the age of twenty-one years, except such persons as are exempt by [articles DXVII-III], shall be bound to serve as jurors in the several courts within the city and parish of New-Orleans.¹⁶²

ART. CCCLXXII.¹⁶³ It shall be the duty of the sheriff of the parish of New-Orleans, to furnish a list on the fourth mon-

¹⁶¹ § 2, act 2 March, 1830, p. 34.

¹⁶² So much of this section as extended its operation over a part of the parish of Jefferson, was repealed by § 9 of the act of 25 March, 1831, p. 114, and by § 2 of the act of 13 March, 1833, p. 55, and is here omitted.

An act of 10 March, 1834, provides, p. 140—

Section 9. That all persons attached to the city guard of New Orleans, as likewise the treasurer and comptroller, and all clerks employed in the different offices of the corporation, and those who are charged with the superintendence of the slaves and convicts sentenced to hard labor, the keeper of the city prison, the workmen employed at the city works, and the city commissaries, are hereby exempted from serving on juries, whether in civil or criminal cases.

The exemption granted by this act must be considered as extended by the act of 8 March, 1836, p. 28, dividing the city of New Orleans into separate municipalities, to the officers, &c. of the different municipalities created by that act.

By different acts of the legislature members of particular fire companies have been exempted from serving on juries, see act of 2 April, 1835, p. 232, &c.; and by an act of 4 March, 1837 p. 40, it is declared—

“That each of those persons who now or may hereafter become enrolled active members in any one or more of the present or future incorporated fire companies within the parish of Orleans, and who may have served as such for a period of six years, after the age of majority, shall, during the period of such service and thereafter, be exempt from any jury duty; provided, that in every case in which any person may claim the privileges granted by this act, he shall exhibit to the president and secretary of the Firemen's Charitable Association, a certificate or certificates signed by the foreman and secretary of the incorporated fire company or companies, of the time which he may have served; and if the said president and secretary shall find that he has served singly or collectively during the term of six years, in one or more of said incorporated fire companies, and been honorably discharged in every instance, it shall be their duty to furnish each of such persons with a certificate, in duplicates, accordingly; [on] receiving from each of such persons a contribution of one dollar to the benefit of said Firemen's Charitable Association; one of which duplicate certificates [shall] be filed in the archives of the office of the sheriff of Orleans.

¹⁶³ Part of § 3, act 2 March, 1830, p. 34.

day of November in every year, of all the white male persons above the age of twenty-one years, not exempt as is provided in the [last article], residing within the limits of the parish of New-Orleans, which said list shall serve for the drawing of the jury.¹⁶⁴

ART. CCCLXXIII.¹⁶⁵ In case the provision of the [last article], which requires the list to be furnished on the fourth Monday of November in every year, should not be complied with, the sheriff shall apply to the district court of the first district, setting forth the cause or causes which have prevented him from complying with said provision; and the said district court shall thereupon give an additional time according to the circumstances of the case, to be judged of by said court, for completing and furnishing said list, and said application and order shall be entered of record in the said court.

ART. CCCLXXIV.¹⁶⁶ It shall be the duty of the sheriff of the [parish of Orleans],¹⁶⁷ to write on ballots the names of the individuals composing each parish, and to put the names con-

¹⁶⁴ The portions of this section extending its operation over a part of the parish of Jefferson, were repealed by the acts mentioned in note 162 *ante*, and are here omitted. The arrangement of this Digest renders it unnecessary to insert the two last lines of this section, which provide that the list therein mentioned "shall serve for the drawing of the jury according to the provisions of the laws which were in force in the state on or before the seventh day of February, 1829." These laws, so far as they are unrepealed by the act of 25 March, 1831, p. 112, arts. CCCLXXV-VII, and still apply to the criminal court of the first district, are inserted in the text.

¹⁶⁵ § 6, act 2 March, 1830, p. 34.

¹⁶⁶ § 4, act 16 March, 1810, 1 D. 622.

¹⁶⁷ This act in the original reads, "it shall be the duty of the *sheriff of the district*." The duties imposed by it on the sheriff of the district, were transferred to the sheriff of the parish, by § 23 of the act of 10 February, 1813, 1 D. 296, which provided that there should be appointed, every three years, in each parish, a sheriff, whose duty it should be, among other things, "to discharge all the duties which were incumbent on the sheriff of the parish and superior courts," the sheriff of the superior court being the "sheriff of the district."

tained in each of the said lists in a separate box, one of the keys of which shall be kept by the said sheriff, and the other by the clerk of the [criminal court of the first district].¹⁶⁸

ART. CCCLXXV.¹⁶⁹ The grand juries for the body of the first judicial district shall be selected only once in every three months, and shall serve and continue in service during the term of three months, and be exempted during that time from all other jury service in the other courts of this state. Whenever it shall be necessary to select a grand jury for the said district, the sheriff of the parish of Orleans,¹⁷⁰ [or his deputy],¹⁷¹ together with the clerk of the criminal court of the

¹⁶⁸ This act, as it was originally passed, read "by the clerk of *the said district*." By § 4 of the act of 31 March, 1807, p. 8, the district clerk had been required "to perform the same duties as were by law established for the clerk of the superior court;" and by § 22 of the act of 10 February, 1813, it was further provided that there should be appointed, in each parish, by the district judge, a clerk whose duties and functions should be the same as were previously fulfilled by the clerks of the late superior court. By § 3 of the act of 12 March, 1818, 1 D. 330, art. CCCLXXXIII, creating the criminal court of New Orleans, (changed to criminal court of the first district, by § 3, act of 16 Jan. 1821, 1 D. 335), it was enacted, that "the said court shall appoint its own clerk, whose duties and functions shall be the same as those of the clerks of the district courts in criminal causes and proceedings."

¹⁶⁹ § 10, act of 25 March, 1831, p. 114.

¹⁷⁰ The act of 18 March, 1840, p. 40, creating the office of sheriff of the criminal court of New Orleans, provided—

Section 7. That the jurors of said court shall be drawn by the sheriff of the said criminal court, in the same manner as they are now drawn by the sheriff of the parish of Orleans.

The act of 10 February, 1841, p. 16, repealing this provision, provides—

Section 12. That the juries for the district, parish, commercial, and criminal courts shall be drawn by the sheriff of the parish of Orleans, whose duty it shall be to be the keeper of the jury box; but said sheriff shall be assisted in the drawing of the juries by the clerks of the respective courts, and the jurors drawn shall be summoned by the sheriffs of the respective courts.

The act of 1831 is thus restored:

¹⁷¹ These, and the words between brackets in the rest of this section, are amendments introduced by an act of 13 March, 1833, p. 55. This act provides—

Section 1. That it shall be lawful for the sheriff of the parish of Orleans, or

first district, [or his deputy], during the last week in the month, [or as soon thereafter as convenient, under the direction of the court], shall draw from the jury box forty-eight names of persons duly qualified to serve as jurors for the ensuing month; and they shall be summoned to attend the said court, accordingly. Out of the said forty-eight persons so drawn and summoned, there shall be selected by the said sheriff and clerk, under the direction of the court, a grand jury to consist of sixteen persons, who shall be impannelled and sworn to serve as above mentioned; and the remaining persons shall be impannelled to serve as petty jurors in the said court.

ART. CCCLXXVI.¹⁷² The petty jurors impannelled as aforesaid, for the said court, shall attend and serve during one calendar month, from the time they shall have been impannelled; and whenever it shall not be necessary to select a grand jury, the sheriff of the parish of Orleans,¹⁷³ together with the clerk of the said court, during the last week in the month, shall draw from the jury box only thirty-six names of persons duly qualified to serve as jurors, for the ensuing month, and they shall be summoned to attend the said court accordingly.

ART. CCCLXXVII.¹⁷⁴ If at any time the number of jurors drawn to serve in any court of the first district of this state, should become insufficient for the good and speedy administration of justice, the judge of such court is authorized to direct that such an additional number of jurors, as he shall consider requisite, shall be drawn according to law, on such a day as he

his deputy, together with the clerk of the criminal court of the first district, or his deputy, to draw during the last week in the month, or as soon thereafter as convenient, under the direction of the court, the number of jurors necessary to serve in said court, as provided for in the tenth section of the act entitled "an act concerning trials by jury," approved the twenty-fifth of March, one thousand eight hundred and thirty-one.

¹⁷² § 11, act of 25 March, 1831, p. 116.

¹⁷³ See note 170, *ante*; and act of 13 March, 1833, note 171, *ante*.

¹⁷⁴ § 3, act of 25 March, 1831, p. 112.

shall appoint ; and if it should happen that the said drawing be not then made, the judge shall fix another day for that purpose.

ART. CCCLXXVIII.¹⁷⁵ When all the names contained in the said boxes shall have been drawn, the sheriff of the [parish of Orleans],¹⁷⁶ in presence of the clerk of the [criminal court of the first district],¹⁷⁷ shall again put, in the manner aforesaid, in each of the said boxes, the names of the individuals composing the parish list by him last received, to be afterwards drawn out as above prescribed.

ART. CCCLXXIX.¹⁷⁸ When there shall not be a sufficient number of jurors drawn and summoned as aforesaid, whether for challenges or for other good cause, the sheriff, by order of the court, shall summon instantly a sufficient number of persons qualified to serve as jurors to complete the jury.

ART. CCCLXXX.¹⁷⁹ The said court shall have the same power as the district courts do now, or may hereafter lawfully possess, to fine grand and petty jurors for non-attendance.

ART. CCCLXXXI.¹⁸⁰ The said court when in session, and the judge thereof in vacation time, shall have power to issue writs of *habeas corpus*, and to give relief thereupon, in the same manner and as fully as any other court or judge of this state may lawfully do.

ART. CCCLXXXII.¹⁸¹ The judge of the criminal court [is] authorized and empowered to sentence all persons under

¹⁷⁵ § 6, act of 16 March, 1810, 1 D. 623.

¹⁷⁶ This act reads in the original "the sheriff of the district of the superior court." See note 167, *ante*.

¹⁷⁷ This act, as originally passed, read, "in the presence of the clerk of the same." See note 168, *ante*.

¹⁷⁸ Part of § 4, act of 17 February, 1821, 1 D. 336.

¹⁷⁹ Part of § 10, act of 12 March, 1818, 1 D. 331.

¹⁸⁰ § 12, *ibid*.

¹⁸¹ § 3, act 5 March, 1841, p. 46.

the age of fifteen years, convicted of any crime, excepting for capital offences, committed within either municipality where a house of refuge is established, to be confined within said house of refuge.

ART. CCCLXXXIII.¹⁸³ The said court shall appoint its own clerk, who shall be sworn in the manner prescribed by the constitution and laws of this state,¹⁸³ and whose duties and functions shall be the same as those of the clerks of the district courts in criminal causes and proceedings; and shall appoint [its] own translator, whose duties, functions, and perquisites shall be the same as those of the translators of the district courts in criminal cases.

ART. CCCLXXXIV.¹⁸⁴ It shall be the duty of the interpreter of the criminal court of New Orleans, to attend the sessions of said court in the parishes composing the jurisdiction thereof.

ART. CCCLXXXV.¹⁸⁵ The salary of the clerk of the criminal court of the first judicial district, is hereby fixed at the rate of two thousand dollars a year, to be paid quarterly, on his warrant, by the state treasurer.

ART. CCCLXXXVI.¹⁸⁶ The translator to be appointed by the said court shall be allowed a salary of [two]¹⁸⁷ thousand dollars, to be paid quarterly out of the treasury, on the warrant of the judge, certifying that he has performed the duties of his office.

¹⁸³ § 3, act of 12 March, 1818, 1 D. 330.

¹⁸⁴ See the 27th section of the act of 28 January, 1817, 1 D. 325, note 135, *ante*; and see § 2 of the act of 20 March, 1813, 1 D. 378, art. DLIII, for the duty of clerk where a prisoner has been sentenced to death.

¹⁸⁵ Act 31 January, 1837, p. 4.

¹⁸⁶ § 7, act of 2 April, 1835, p. 230.

¹⁸⁷ § 8, act 17 February, 1821, 1 D. 337.

¹⁸⁷ Raised from one to two thousand dollars by act 31 January, 1837, p. 4.

ART. CCCLXXXVII.¹⁸⁸ There shall hereafter be appointed by the governor, by and with the advice and consent of the senate, an officer who shall be styled sheriff of the criminal court of New Orleans.

ART. CCCLXXXVIII.¹⁸⁹ All writs, orders, warrants, and other process of said court shall be directed to the sheriff of the criminal court of New Orleans, and shall be by him served and executed; and said sheriff of the criminal court shall henceforward possess all the powers, and shall perform all the duties which are now vested in, or are performed by the sheriff of the parish of Orleans as the ministerial or executive officer of said criminal court,¹⁹⁰ and shall be entitled to demand and receive the same compensation and emoluments therefor, as are now received by said sheriff of the parish of Orleans.¹⁹¹

ART. CCCLXXXIX.¹⁹² Said sheriff of the criminal court shall be ex officio keeper of the parish jail of New Orleans; and shall receive the same profits and emoluments as are now received by the sheriff of the parish of Orleans.¹⁹³

¹⁸⁸ § 1, act of 18 March, 1840, p. 40.

¹⁸⁹ Part of § 2, *ibid*.

¹⁹⁰ The act of 3 March, 1819, concerning the criminal court of New Orleans, had provided, 1 D. 333—

Section 3. The sheriff of the parish and city of New Orleans, for the time being, or his deputy, shall be attendant on the said court, and shall serve and execute, or cause to be served and executed in every parish throughout the whole extent of the said first district, all writs, orders, judgments, and sentences lawfully issued, adjudged, or pronounced by the said court.

¹⁹¹ The act of 12 March, 1818, § 6, 1 D. 330, provided that the sheriff of the parish of Orleans should "receive the same compensations for his services in the criminal court of New Orleans, as are allowed him for similar services in the court of the first judicial district."

¹⁹² Part of § 4, act of 18 March, 1840, p. 41.

¹⁹³ The act of 10 February, 1841, creating the offices of sheriff of the district court of the first district, and sheriff of the commercial court of New Orleans, provides, p. 18—

ART. CCCXC.¹⁸⁴ The said sheriff of the criminal court shall give bond, with a good and sufficient security, in the sum of thirty thousand dollars, conditioned for the proper and faithful discharge of his duties.

ART. CCCXCI.¹⁸⁵ The constables giving attendance on the said court, by order of the sheriff, shall be allowed each three dollars per day for every day they shall so attend, to be certified and paid as heretofore provided by law.

ART. CCCXCII.¹⁸⁶ All the fines and forfeitures incurred or imposed by the criminal court of the first district, on conviction for offences committed within the [¹⁸⁷following limits, to wit: beginning at the Nun's plantation above the city of New Orleans, and extending below said city as far as the canal des Pecheurs, including the settlements of the bayou St. John], or for other causes, shall incur to the benefit of the

Section 18. That whenever any of the sheriffs mentioned in this act, [the sheriffs of the parish of Orleans, of the district court of the first district, and of the commercial court of New Orleans] shall have taken, or arrested, or detained any person, whether under mesne or final process, he shall deliver the said person to the sheriff of the criminal court, and leave with him a duplicate of the writ by virtue of which said person was arrested or detained, and shall take duplicate receipts therefor, one of which he shall retain, and the other annex to his return to the writ.

The act of 18 March, 1840, provides, p. 41—

Section 6. Whenever it shall be necessary in the course of any proceedings in any of the civil courts in the parish of Orleans, to produce the body of any person confined in jail in said court, it shall be the duty of said sheriff of the criminal court, to produce him, on the exhibition of a certified copy of an order to that effect.

¹⁸⁴ § 8, act of 18 March, 1840, p. 41.

¹⁸⁵ § 5, act 17 February, 1821, 1 D. 336.

¹⁸⁶ Part of § 26, act 19 February, 1825, 1 D. 352.

¹⁸⁷ Part of § 1, *ibid.*, p. 344. The act of 1825 reads—"for offences committed within the limits as prescribed in the present act;" the limits to which it refers are inserted, between brackets, in the text.

parish of Orleans, and be paid over to the treasurer of the said parish, for the use of the same.¹⁹⁸

ART. CCCXCIII.¹⁹⁹ All necessary expenses incurred in criminal prosecutions before the said court shall be paid on the certificate of the judge²⁰⁰ of the same, out of the treasury of the state ; provided, the criminal be unable to pay the same out of his proper goods and chattels.

SESSIONS IN ST. BERNARD, ST. CHARLES, AND ST. JOHN
THE BAPTIST.

ART. CCCXCIV.²⁰¹ The judge of the criminal court of the first district is hereby authorized and required to hold two terms of said court, in each year, in each of the parishes of St. Bernard,²⁰² St. Charles, and St. John the baptist ; which court shall have original and exclusive cognizance and jurisdiction of, and hear and determine according to law, all prosecutions and accusations for all crimes, misdemeanors, or offences which have been, or which may be committed by any free person or persons within the limits of the respective parishes in which said court shall be holden, that could by law be tried and punished by the aforesaid criminal court of the first district.

¹⁹⁸ The rest of this section prescribes how the funds thus raised shall be used, and how any deficiency for the purpose shall be made up.

¹⁹⁹ Part of § 15, act 12 March, 1818, 1 D. 332.

²⁰⁰ The words "president or presiding" in the original act, were virtually repealed by the act of 16 January, 1821, 1 D. 335, reducing the number of judges to one.

²⁰¹ § 1, act 2 April, 1832, p. 174.

²⁰² This act originally included the parishes of Plaquemine, Jefferson, and St. Bernard, but was repealed so far as it related to them, by an act of 1 March, 1834, p. 75 ; and revived as to the parish of St. Bernard, by an act of 30 March, 1835, p. 163.

The 17th section of the act of 2 April, 1832, p. 178, provides—

"That this act shall not be construed as in any manner affecting the jurisdiction and power of the criminal court of the first district, so far as it relates to the parish of Orleans.

ART. CCCXCV.²⁰³ Said court shall hold its sessions in each and every year, in the parish of St. Bernard, on the second Mondays of the months of January, May, and September; in the parish of St. Charles, on the fourth Mondays of the months of May and September; and in the parish of St. John the Baptist, on the first Mondays next following the fourth Mondays of the months of May and September; and shall continue in session one week in each of the aforesaid parishes, if the business of the court shall require it.²⁰⁴

ART. CCCXCVI.²⁰⁵ In case there shall be no court house in any of the aforesaid parishes, the sheriff of said parish shall procure a suitable house for holding the sessions of the aforesaid court in his parish, the expenses of which shall be paid out of the treasury of the parish.

ART. CCCXCVII.²⁰⁶ The clerks of the parish courts in each of the aforesaid parishes, shall be, ex-officio, clerks of the criminal courts hereby established therein: provided, that if in any of said parishes there shall be no clerk of the parish court, then the judge of the criminal court of the first district shall appoint some competent person to act as the clerk of said criminal court, until a clerk of the parish court shall be appointed and qualified according to law.

ART. CCCXCVIII.²⁰⁷ It shall be the duty of the attorney general of the state, or such deputy as he may appoint for the purpose, to attend all of said courts, and prosecute according to law all delinquents and offenders, for all crimes, misde-

²⁰³ § 2, act of 2 April, 1832, p. 174.

²⁰⁴ So much of this section as related to the parishes of Plaquemine and Jefferson is omitted, having been repealed by the act of 1 March, 1834, p. 75. See note 202, *ante*.

²⁰⁵ § 11, act of 2 April, 1832, p. 176.

²⁰⁶ § 3, *ibid*, p. 174.

²⁰⁷ § 4, *ibid*.

meanors, or offences [which] have been or may hereafter be committed within the limits of the aforesaid parishes.

ART. CCCXCIX.²⁰⁸ The said courts shall each have their own seals ; and shall have power to make all necessary rules for regulating their proceedings, not inconsistent with any law of the state ; to issue all writs and process, make all orders and decrees that may be proper and requisite for the exercise of their jurisdiction ; to fine any of [their] officers for neglect of duty, in any sum not exceeding fifty dollars for each default ; to punish all contempts by a fine of not exceeding fifty dollars, or imprisonment not exceeding five days for each offence ; to appoint their own translators, whose duties and perquisites shall be the same as those of the translators of the district courts in criminal cases ; and have the same power as the district court to fine grand and petit jurors and witnesses for non-attendance.

ART. CCCC.²⁰⁹ The sheriffs of each of the aforesaid parishes, or their lawful deputy or deputies, shall attend on the said courts during the session thereof in their respective parishes ; and the said sheriff or sheriffs shall serve and execute, or cause to be served and executed, all writs, citations, orders, judgments, and sentences lawfully issued, made, adjudged, or pronounced by the said court ; and the said sheriffs shall receive the same compensation for their services in said court, as is now allowed by law to the sheriffs of the other parishes of the state, without the limits of the first judicial district, for similar services.

ART. CCCC.I.²¹⁰ The clerks of the said courts shall be allowed for their services, the same fees and emoluments as are now allowed by law to the clerks of the district courts of the state.

²⁰⁸ § 5, act 2 April, 1832, p. 174.

²⁰⁹ § 6, *ibid.*, p. 176.

²¹⁰ § 7, *ibid.*

for similar services ; and they shall perform the same duties, and keep the records and papers of the said courts in the same manner, as is required by law to be done by the clerks of the district courts of the state having criminal jurisdiction.

ART. CCCCH.²¹¹ All prosecutions in the said courts for capital or infamous crimes or offences, punishable by imprisonment at hard labor [²¹²for more than two years], shall be by an indictment duly found by a grand jury ; and prosecutions for all other offences, may be by information, provided, the leave of the court to file such information shall have been first obtained.

ART. CCCCH.²¹³ All examinations, depositions, declarations, confessions, affidavits, bonds, recognizances, and generally all other instruments, acts, documents, or papers whatever, taken or received in or concerning any criminal cause or accusation, arising within the limits of any or each of the aforesaid parishes, shall be transmitted by the judge, justice of the peace, or other person taking or receiving the same, unto the clerk of the said court in the parish having cognizance of the crime or offence to be examined into, and by the said clerk forthwith transmitted to the attorney general or his deputy.

ART. CCCCH.²¹⁴ On the first Mondays in the months of March and July, or within five days thereafter in each and every year, the clerk of the criminal court in each of the aforesaid parishes, together with the sheriff and parish judge thereof, or some justice of the peace therein, or any two of them, shall make out an exact list of all the persons in each of the afore-

²¹¹ § 8, act of 2 April, 1832, p. 176.

²¹² An act of the 8 March, 1841, p. 59, provides—

“ That in all criminal prosecutions in the criminal court of the first district, for crimes and offences punishable by not more than two years hard labor, the proceedings may be by information.”

²¹³ § 9, act of 2 April, 1832, p. 176.

²¹⁴ § 14, *ibid.*, p. 178.

said parishes, who are, according to the existing laws of the state, qualified to serve as jurors; and at least thirty days before the times fixed by [law] for the holding of the sessions of the court in each of the aforesaid parishes, the aforesaid clerk of the court in each of the parishes, together with the sheriff and parish judge thereof, or some justice of the peace therein, or any two of them, shall from the names [on] said list of qualified jurors made as aforesaid, draw by ballot from a box the names of forty-eight persons to serve as grand and petit jurors at each term of the court in the said parishes, who shall be summoned by the sheriff to attend the said court in the same manner as jurors are summoned to attend the district courts in the other parishes of the state, the parish of Orleans excepted.

ART. CCCCV.²¹⁵ From among the jurors so drawn and summoned as already provided, and who are in attendance at each term of the aforesaid court in each and every parish, there shall be chosen by the sheriff, under the direction of the court, a grand jury to consist of not more than fifteen jurors, who shall be empannelled and sworn for the body of the parish, and authorized and required to perform all the duties required to be done by grand juries in the other parishes of the state; and the remaining persons drawn and summoned as aforesaid, shall serve as petit jurors, for the trial of all such causes pending in the court, as they may be called upon to try and adjudge.

ART. CCCCVI.²¹⁶ No prosecution or other proceeding whatever, pending in the criminal court of any of the aforesaid parishes, shall abate, become void, or be discontinued by reason of the said court not holding its sessions on the days fixed by [law] for the setting of the same; and in case the judge authorized to hold the court in any of the said parishes, shall fail

²¹⁵ § 15, act of 2 April, 1832, p. 178.

²¹⁶ § 13, *ibid.*

to attend on the day appointed for the holding of the court in said parish, then the clerk of the court in said parish shall have power to adjourn said court, from day to day, for three days, unless said judge shall sooner appear to hold said court.

ART. CCCCVII.²¹⁷ All fines and forfeitures adjudged by said court, shall be paid to the sheriff of the parish in which the [fine or] forfeiture is decreed and imposed, and shall by said sheriff, unless otherwise provided by law, be paid into the treasury of the state ; and the clerk of the said court in each of the aforesaid parishes shall, after the termination of each term of the court, transmit to the treasurer of the state, a list of all the fines and forfeitures adjudged or imposed by said court during the session thereof, in the same manner as the clerks of the district court in the other parishes of the state are bound to do, and be subject to the same penalties for failing to do so.

ART. CCCCVIII.²¹⁸ The police jury of each of the said parishes shall provide a sufficient and suitable prison within the limits of the parish, for the safe keeping of all persons who may be confined, or [be] ordered to be confined in the said parishes ; and all expenses incurred in the safe keeping of any prisoner or prisoners, shall be paid by the parish in which said prisoner or prisoners are confined.

CITY COURT OF THE CITY OF LAFAYETTE.

ART. CCCCIX.²¹⁹ For the administration of justice within the [following] limits : [²²⁰commencing at the lower line of the city of Lafayette, and extending to the upper line of the town of Carrollton, in the parish of Jefferson, and including all that space of country within said limits, and back as far as the Metairie road], there shall be constituted a court, to be pre-

²¹⁷ § 16, act of 2 April, 1832, p. 178.

²¹⁸ § 12, *ibid.*, p. 176.

²¹⁹ § 3, act of 2 April, 1835, p. 212.

²²⁰ Part of § 2, *ibid.*

sided [over] by a judge learned in the law, to be appointed by the governor, by and with the advice and consent of the senate, with emoluments, powers, and duties as hereinafter described, to be called the *City Court of the City of Lafayette*.

ART. CCCCX.²²¹ The judge of said court shall appoint a suitable clerk for the said court, whose duty it shall be to keep and preserve the records and proceedings thereof in conformity to law, and under the direction of the judge thereof, and to do all other acts incident to the proceedings of courts, who shall hold his office during good behavior; and it shall moreover be lawful for said clerk to appoint as many deputies as he may think necessary, to be previously approved of by the court. The clerk of said court shall be authorized and empowered, ex officio, to administer oaths, and to issue, under the seal of the said court, the necessary process, on the requisitions of the law being complied with.

ART. CCCCXI.²²² It shall be the duty of the governor, with the advice and consent of the senate, to appoint a suitable person to be called the marshal of the city of Lafayette, who shall hold his office during the space of two years, and who shall previous to entering on the duties of his office, take the usual oaths, and shall moreover give bond in the manner prescribed for the sheriff, himself in the sum of three thousand dollars, and two sureties in the sum of fifteen hundred dollars each, conditioned for the faithful and honest discharge of the duties of his office, which bond shall be filed with the clerk of the said court; and upon satisfactory proof offered to the

²²¹ Part of § 5, act of 2 April, 1835, p. 213.

²²² § 7, *ibid.* The 10th section of this act, p. 214, provides—

“That the bonds to be given by the marshal, agreeably to this act, may be cancelled in the same manner provided by law for cancelling of sheriffs’ bonds, with the exception that it shall only be necessary to give notice by advertisements, on three different days, in english and french, in the newspaper printed in the city of Lafayette, and in one printed in New Orleans, and that the bonds may be cancelled in thirty days from the date of the last advertisement.”

said court, at any time, of neglect or misbehavior in office by the said marshal or his deputies, suit may be brought before any court of competent jurisdiction, for the benefit of the party injured. Said marshal shall have power to appoint as many deputies as he may think proper, who shall, in like manner, take the usual oath of office, and the said marshal shall be responsible for the acts of his deputies, and he may exact from them, or not, security for his own indemnity : provided, that all appointments of deputy marshals shall be approved by the said city court.

ART. CCCCXII.²²³ It shall be the duty of said marshal, or his lawful deputies, to attend the sessions of the court, to preserve order in the same, to execute and return all orders, writs, and process to him or them directed, according to law ; and, generally, to do and perform all such duties and services as are usually done and performed by sheriffs, whenever the same may be applicable or necessary to said court.

ART. CCCCXIII.²²⁴ It shall be the duty of the marshal to pay over all sums of money received by him or his deputies, by virtue of [any] final judgment, to the person or persons duly entitled to the same, or to his or their attorney or attorneys, within three days from the demand that shall have been made [of] him ; and in case he should neglect to pay the same, the amount shall be recovered from him, or his sureties, and [he] shall moreover be liable to removal from office.

ART. CCCCXIV.²²⁵ The judge of said court shall have the power to appoint persons, *ad hoc*, to execute any writ or process in criminal matters ; [and] ²²⁶shall have power to punish all contempts of court, by fine or imprisonment, in conformity with the existing laws of the state on that subject, or the powers incidental to courts of justice.

²²³ Part of § 8, act of 2 April, 1835, p. 214.

²²⁴ § 9, *ibid*.

²²⁵ § 11, *ibid*.

²²⁶ Part of § 19, *ibid*, 216.

ART. CCCCXV.²²⁷ All fines and forfeitures accruing or imposed by said court on non-attending jurors or witnesses, or for contempt of court, or other causes, shall be collected by the marshal, and paid to the treasurer of the city of Lafayette, for the use of said city.

ART. CCCCXVI.²²⁸ The judge of the said court, shall be a conservator of the peace ; and it shall be, moreover, his duty to receive all informations of crimes and misdemeanors alleged to have been committed within his jurisdiction, and to receive all affidavits and depositions in relation thereto, and to commit the same to writing ; to issue all necessary warrants and orders for the apprehension of persons accused, and subpoenas for witnesses, to be directed to and served by the marshal or his deputies ; to commit to writing the voluntary declarations of the accused ; to discharge from arrest, to admit to bail in all bailable cases, to commit to prison for trial and for further examination, and to take recognizances from parties, or witnesses, to appear before the criminal court of the first district ; and it shall, furthermore, be the duty of the said judge to send all such documents, so by him taken in relation to the arrest or examination of persons so accused, to the clerk of the said criminal court.

ART. CCCCXVII.²²⁹ In addition to the foregoing powers, the judge of the said court shall have special jurisdiction and cognizance of, and shall have power to try, all cases of mere assault and battery, occurring within the said limits, when such cases do not extend to the loss of life or limb ; and he shall have power to punish such offences, on conviction thereof, by fine or imprisonment, or both, according to the nature of the offence ; provided always, that in such cases the party accused shall be entitled to a trial by a jury of six qualified persons of the vicinage, before said court, which jury shall be

²²⁷ Part of § 20, act of 2 April, 1835, p. 216.

²²⁸ § 22, *ibid*.

²²⁹ § 23, *ibid*, 217.

summoned in the [following] manner : ²³⁰the clerk shall issue an order to the marshal requiring him to summon six men, qualified to serve as jurors, to attend at such time and place as shall be designated by the rules of the court ; and, in case of a deficiency of jurors, the court shall have power to award *a tales*.

ART. CCCCXVIII.²³¹ All final judgments shall be signed by the judge, and they may be signed as soon as they are rendered, without prejudice to the rights of the parties to move for a new trial, or other relief against the judgments, within the legal delay,

ART. CCCCXIX.²³² The fees to which said judge shall be entitled, in the exercise of the criminal jurisdiction vested in him by [the preceding articles], shall be the same which justices of the peace in this state are entitled to in similar cases. And the fees of the marshal, for services and duties performed by him in criminal matters, shall be the same which constables are entitled to in similar cases ; and the costs of the judge and marshal, in such cases, when not otherwise satisfied, shall be paid out of the funds of the corporation of the city of Lafayette.

ART. CCCCXX.²³³ The judge of the said court shall open his court regularly each day, at ten o'clock in the morning, except on festivals ; and the said judge shall have power to make all such rules and regulations, for the government of said court, as he may think proper, that are not herein provided for, and are not contrary to the constitution and laws of the state.

²³⁰ Part of § 18, act of 2 April, 1835, p. 215. The 23d section of the act of 1835, in the text, provides that the jury " shall be summoned in the manner expressed in section eighteenth." See § 9, act of 5 March, 1841, p. 48, b. 1. ch. 7, note 53, for powers of the judge of this court in regard to vagrants.

²³¹ § 24, act of 2 April, 1835, p. 217.

²³² § 25, *ibid*, 217.

²³³ § 27, *ibid*.

ATTORNEY GENERAL, DISTRICT, AND STATE ATTORNEYS.

ART. CCCCXXI.²³⁴ There shall be an attorney general for the state, and as many other prosecuting attorneys for the state as may be hereafter found necessary. The said attorneys shall be appointed by the governor, with the advice and approbation of the senate. Their duties shall be determined by law.

ART. CCCCXXII.²³⁵ An attorney general shall be appointed, whose duty it shall be to prosecute and conduct all suits in which the state of Louisiana shall be concerned, arising within the first judicial district, and to prosecute all delinquencies for crimes and offences committed against the laws of the state within said district, and to give his opinion, in writing or otherwise, upon all questions of law when required by the governor, or by any other civil officer of the state; and there shall likewise be appointed [eight²³⁶] district attorneys, who shall perform the duties of public prosecutors in each of the judicial districts of the state, in the same manner as is prescribed to the attorney general; and the said attorney general shall receive, in quarter yearly payments, an annual compensation of [three thousand²³⁷] dollars, and each of the said dis-

²³⁴ Art. 4, section 7, Constitution of Louisiana.

²³⁵ § 21, act of 10 February, 1813, 1 D. 295.

²³⁶ This act originally provided for the appointment of six district attorneys. The act of 15 February, 1822, § 5, 1 D. 316, establishing the eighth judicial district, provided for the appointment of an additional one for that district; the act of 5 March, 1838, § 4, p. 30, establishing the ninth district, for one for that district; and the act of 9 March, 1840, § 4, p. 32, creating the tenth district, for one for that district; their duties and salaries to be the same with those originally appointed.

The act of 6 March, 1841, p. 49, abolished the office of district attorney in the third district, see arts. CCCCXXIV-V.

²³⁷ Raised from fifteen hundred, as fixed in the original act of 1813, to three thousand dollars, by § 2, act of 11 March, 1837, p. 76.

trict attorneys, an annual salary of [one thousand²³⁸] dollars, payable in the same manner.²³⁹

ART. CCCCXXIII.²⁴⁰ The governor is authorized to appoint a district attorney for the first judicial district, whose duty it shall be to assist the attorney general in all criminal prosecutions, and who shall receive a salary of [two²⁴¹] thousand dollars, per annum.

ART. CCCCXXIV.²⁴² In place of a district attorney for the

²³⁸ Raised from four hundred, at which it was fixed in the original act of 1813, to one thousand dollars, by § 2, act of 11 March, 1837, p. 76.

²³⁹ The third section of the act of 22 February, 1817, 1 D. 27, makes it also the duty of the district attorneys to sue in all civil cases, where the state shall be a party; the rest of the section, so far as it relates to criminal cases, merely re-enacts what was already in force at the time of its passage. The provisions of § 7, act of 12 March, 1818, 1 D. 330, so far as it relates to the duties of the attorney general, is included in the act of 1813 in the text.

The act of 1818 made it the duty "of the attorney general, or his deputy, to conduct all public prosecutions whatever" before the criminal court of New Orleans; and the act of 2 April, 1832, section 4, p. 174, art. CCCXCVIII, made it "the duty of the attorney general of the state, or such deputy as he may appoint for the purpose," to attend the criminal court of the first district, sitting in the parishes of St. Bernard, St. Charles, and St. John the Baptist, and to prosecute all offences committed within the limits of said parishes. The office of deputy attorney general is not mentioned in any other act. The district attorney of the first judicial district, created by the act of 20 March, 1839, p. 160, art. CCCCXXIII, was substituted for that officer.

²⁴⁰ § 1, act of 20 March, 1839, p. 160.

²⁴¹ Raised from one to two thousand dollars, by section 2 of the act of 25 March, 1840, p. 82. The one thousand dollars given by the act in the text, was made "payable quarterly by the state treasurer, on the warrant of the district attorney." The act of 1840 provides that the additional compensation which it allows the district attorney, shall be "paid quarterly on his warrant, by the parish treasurer, out of the sums arising from the taxes on suits in the court of the first judicial district of this state, in the parish court of the parish of Orleans, and in the commercial court of New Orleans, after the salaries and expenses already provided for by the act creating the commercial court of New Orleans shall have been paid."

²⁴² Part of § 1, act 6 March, 1841, p. 49. So much of this section as relates to the duties of the state attorneys in the prosecution of slaves, is not inserted in the text.

C. II.] ATTORNEY GENERAL, DISTRICT ATTORNEYS, &c. 227

third judicial district, there shall be appointed, in the same manner and for the same term of office as district attorneys are now appointed, an attorney in behalf of the state, in each of the parishes of East and West Feliciana, and East Baton Rouge, to be called the state attorney for the parish for which they shall respectively be appointed. The state attorneys for each of said parishes shall reside in the parish for which they [shall be] appointed, and shall perform all the duties in their respective parishes which heretofore devolved on the district attorney. Said state attorneys shall prosecute in all cases in which the state is a party.

ART. CCCCXXV.²⁴³ For the services rendered the state, the state attorneys appointed under the [last article] shall each receive as a compensation three hundred and thirty-three dollars, thirty-three and a-third cents, for each and every year, to be paid out of any moneys in the treasury not otherwise appropriated, in quarterly payments, to be drawn upon the warrant of said state attorney ; and the said state attorney shall be allowed to receive the same perquisites allowed to district attorneys of this state.²⁴⁴

ART. CCCCXXVI.²⁴⁵ The attorney general, and the district attorneys, shall discharge the duties of their respective appointments in person ; and for that purpose they shall attend, unless prevented by sickness or physical impossibility, the several sessions of the district courts within their particular district, from the commencement thereof, until the business in which the state shall be a party, or have an interest, shall be disposed of. The said attorney general and district attorneys shall hold their appointments during three years, but for mal-

²⁴³ § 2, act 6 March, 1841, p. 50.

²⁴⁴ This act further provides—

Section 3. That the state attorney for the parish of East Baton Rouge shall be allowed one hundred dollars per annum, as compensation for his services as attorney for the penitentiary.

²⁴⁵ Part of § 15, act of 26 March, 1813, 1 D. 301.

feasance or improper conduct may be removed by impeachment, or by the eighth section of the sixth article of the constitution.²⁴⁶

ART. CCCCXXVII.²⁴⁷ The attorney general, and district attorneys in the several judicial districts of this state, shall be entitled to receive the sum of ten dollars on each and every criminal prosecution, to be paid by the defendant in said prosecution.²⁴⁸

ART. CCCCXXVIII.²⁴⁹ When the attorney general, or any district attorney, shall be entitled to a fee agreeably to the provisions of [the last article], the said attorney shall have a right to an execution, or order of seizure, for the recovery of said fee; and the same proceedings shall be had thereon, as [on] an execution or order of seizure issued on a final judgment.

ART. CCCCXXIX.²⁵⁰ The attorney general, and several district attorneys, shall receive ten per centum on the amount of money collected on any judgment [²⁵¹ against any person, principal or surety, who may have entered into any bond, recognizance, or obligation whatsoever, for appearance or attendance at court], rendered in their respective districts.

ART. CCCCXXX.²⁵² Whenever, in any of the courts of this state, the attorney general, or the prosecuting attorney of the

²⁴⁶ The part of this section not inserted in the text, was but of temporary application, and is long since out of force. See § 8, art. 6, of the constitution, note 4, *ante*.

²⁴⁷ Part of § 1, act of 22 February, 1817, 1 D. 27.

²⁴⁸ The proviso forming part of this section in the original act, was virtually repealed by the act of 1 March, 1820, 1 D. p. 407, art. DXXXIV, and is here omitted. This last act provides, "that no person shall be subject to the payment of costs, whenever acquitted by the court or jury."

²⁴⁹ § 2, act of 22 February, 1817, 1 D. 27.

²⁵⁰ Part of § 4, act of 11 March, 1837, p. 99.

²⁵¹ See section 1, *ibid*.

²⁵² § 26, act of 28 January, 1817, 1 D. 324.

district shall not attend, the judge shall have power to appoint an attorney to prosecute on behalf of the state, *pro tempore*.

SHERIFFS.

ART. CCCXXXI.²⁵³ There shall be appointed in and for each parish²⁵⁴ in this state, one sheriff, who shall continue in office during the term of three years, unless removed agreeably to the provisions of the constitution,²⁵⁵ whose duty it shall

²⁵³ Part of § 1, act of 25 March, 1813, 2 D. 373.

²⁵⁴ The 1st section of the act of 16 December, 1824, 2 D. 382, provides that "the sheriff of the parish of St. John the Baptist shall be *ex officio* sheriff of the county of German Coast; and that, in future, only one sheriff shall be appointed for the said county."

The county of German Coast, mentioned in this act, comprehended the parishes of St. Charles, and St. John the Baptist, see § 1, act 10 April, 1805, 1 D. 287. The division into counties, established by the act of 1805, was virtually abolished, except for certain special purposes, by the subsequent act of 31 March, 1807, p. 10, dividing the territory into parishes, see book 1, ch. VII, note 19.

The act of 10 February, 1841, p. 13, provides—

Section 2. That hereafter the duties of the sheriff of the parish of Orleans shall be confined to the supreme court, the court of probates, and the parish court of the parish and city of New Orleans, and to such other functions as are not specially imposed on one or other of the two additional sheriffs created by this act.

This act created two additional sheriffs, one for the district court of the first judicial district, and the other for the commercial court of New Orleans. The act of 18 March, 1840, p. 40, had created the office of sheriff of the "criminal court of *New Orleans*."

The act of 10 February, 1813, organizing the supreme court and establishing courts of inferior jurisdiction, had provided, 1 D. 296—

Section 23. There shall be appointed every three years, in each parish, a sheriff, whose duty it shall be to execute all judgments and orders of the district court and of the parish court, as also those of the supreme court when sitting in the parish for which he shall have been appointed, and to discharge all the duties which were incumbent on the sheriff of the parish and superior courts.

²⁵⁵ An act of 10 March, 1835, p. 55, provides—

Section 1. That whenever any sheriff, coroner, or justice of the peace shall permanently remove from the parish for which he may have been appointed, said office shall in consequence thereof be declared vacant; and upon satisfactory information being given, either by the certificate of the parish judge

be, by themselves or deputies, to attend each and every court that shall be holden in their respective parishes, as well in term time as in vacation, to execute all writs, orders, and process of the said court or any judge thereof, that may be issued, to them directed, and do and perform all other duties that may be required of them by law; and said sheriffs shall moreover be keepers of the public jails of their respective parishes, and they shall by all lawful means preserve the peace, and apprehend all disturbers thereof, and other public offenders.²⁵⁶

or the representative of the parish, of such removal, the governor shall be and he is hereby authorized, by and with the advice and consent of the senate, to supply such vacancy: provided, however, that should the legislature not be in session, then the governor shall be, and is hereby authorized, to fill said vacancy by commission to expire at the end of the next session thereafter.

²⁵⁶ The act of 25 March, 1813, provides, section 2, 2 D. 374, that every sheriff before entering on the duties of his office shall give bond, with security as prescribed in the said act, that he will "well and faithfully execute, and make true returns according to law of all such writs, orders, and process as shall come into his hands as sheriff aforesaid, and well and truly pay over all sums of money that shall come into his hands as sheriff aforesaid, to the person entitled by law to the same, and shall faithfully do and perform all such other duties as may be required of him by law; which bond shall be put in suit against the said sheriff and his securities, to wit: when in behalf of the state, in the name of the governor for the time being and for the use of the state, by the attorney general or district attorneys, each in their respective districts; and in all other cases, in the name, for the use, and at the request of the person injured; provided, however, that said bond shall not become void by the first or any other recovery, but may be put in suit, and recoveries be had thereon, as often as any breach of the condition shall happen; provided, however, that the securities shall not be liable for more than the penalty of the bond."

The same act further provides, 2 D. 375-8:

Section 3. The sheriff of each parish, before he enters on the duties of his office, shall give a bond payable to the governor of the state and his successors in office, in the penal sum of double the amount of the state and parish taxes to be collected in his parish for the year next succeeding, with at least two sufficient freehold securities of his parish, to be approved as hereafter provided, conditioned that the said sheriff, by himself or deputies, shall faithfully collect and account for all taxes of the state and parish, within his parish, for that year, agreeably to law, together with all fines and amercements; and all bonds given by the sheriff in pursuance of this act, shall be recorded in the office of the clerk of the parish court, and a fair copy of the bond for the col-

ART. CCCCXXXII.²⁵⁷ When there shall be no sheriff in any parish of the state, it shall be lawful for the judge of the district where the said parish is situated to appoint, *pro tem*-

lection of the taxes, shall by the clerk of the parish court be transmitted to the treasurer of the state; and any clerk, failing for the space of three months to transmit the copy of said bond to the treasurer, shall forfeit and pay the sum of five hundred dollars, to be sued for and recovered in the name of the state, on motion, by the district attorney, before either the district or parish courts, in the parish where such sheriffs may reside.

Section 11. The sheriffs to be appointed under this act, shall recover and account for all and every fine imposed by the several courts of this state and the justices of the peace, and they shall every six months pay over, to wit: the fines for the use of the state, into the state treasury, and the fines for the use of the several parishes, to the treasurer of the respective parishes; and all and every sheriff who shall neglect to make payment of said fines, at the above fixed period, shall be prosecuted therefor, in behalf of the state, in a summary way, on motion of the treasurer into whose hands such payment should be made, before the district or parish court where such sheriff may reside; provided, however, that whenever said sheriff shall make it appear, to the satisfaction of the parish court, that the person fined within said parish has become insolvent, that he or she has left the parish, or that no property has been found sufficient to meet the payment of said fines, then, and in every such case, the court shall certify the same to the state treasurer, whose duty it shall be to credit the sheriff therefor.

Section 12. The clerks of the aforesaid courts, and the justices of the peace, within ten days after any fine shall have been imposed by their respective courts, shall make two lists of the same, duly certified and signed by them, one of which lists shall be transmitted to the sheriff whose duty it shall be to collect the same, and another copy shall be transmitted to the treasurer into whose hands said fine may be payable, which list shall be a sufficient voucher to prosecute the sheriff who shall fail in the payment thereof within the time specified in the foregoing section; and all and every clerk, or justice of the peace, who shall neglect to perform the duties enjoined on them by the preceding [présente—french text] section, shall forfeit and pay a sum of two hundred dollars, which fine shall be sued for and recovered, in the name of the state, on motion of the district attorney, before either the district or parish court where said clerk or justice of the peace may reside.

The act of 7 February, 1817, § 3, 2 D. 379, imposes a penalty of twenty-five dollars on any justice of the peace who shall neglect to attend, when summoned by the district judge, to decide on the security offered by sheriffs under that law. For other provisions on the subject of sheriffs, see 2 D. 373, *et seq.* See also § 5, act of 24 March, 1823, 1 D. 627.

²⁵⁷ § 23, act of 28 January, 1817, 1 D. 323.

pore, some fit person who shall give bond and security in the sum the judge shall think proper to fix, to serve and execute all process, writs, orders, and judgments by him issued or rendered against any person residing in the said parish; and it shall be the duty of the person so commissioned, to serve and execute all the said process, writs, orders, and judgments, in the same manner it should have been done by the sheriff in whose stead he is appointed to act, and he shall be entitled to demand and receive the fees which are allowed by law for such services: provided, that it shall be lawful for the person thus commissioned, to execute all process, orders, and judgments of the judge of the parish where there is no sheriff.

ART. CCCCXXXIII.²⁵⁸ Sheriffs may appoint, with the approbation of the parish court, as many deputies at their own responsibility as they may think proper; provided however, that the deputies shall in the parish court be sworn truly and faithfully to perform the duties imposed on the principal sheriff.

ART. CCCCXXXIV.²⁵⁹ In case of the absence, death, resignation, or removal from office of any parish judge, the sheriff of the parish in which such vacancy in the office of parish judge exists, may appoint, with the approbation of the district judge of said district, as many deputies, at his, the said sheriff's own responsibility, as he the said sheriff may think proper; provided however, that the deputies so appointed, shall be sworn before some person legally qualified to administer an oath, truly and faithfully, according to law, to discharge the duties imposed on the principal sheriff.²⁶⁰

²⁵⁸ § 7, act of 23 March, 1813, 2 D. 377. See § 27, act of 28 January, 1817, 1 D. 325, note 135, *ante*.

²⁵⁹ § 1, act of 26 January, 1814, 1 D. 408.

²⁶⁰ See the 27th section of the act of 28 January, 1817, 1 D. 325, note 135, *ante*.

ART. CCCCXXXV.²⁶¹ The several sheriffs throughout this state, shall be entitled to demand and receive the following fees, and no more, to wit :

For serving <i>subpœna</i> on each witness, - - -	\$0 62½
Serving attachment, and return, - - -	2 00
Serving <i>feri facias</i> , and return of money paid without sale, - - -	2 00

Return of <i>feri facias</i> , no property found, - - -	2 00
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Return of *feri facias*, and no sale for want of bidders

to the amount required by law, - - -	4 00
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Serving *feri facias* and making sale, for the first five hundred dollars, two and a half per cent ; for each hundred dollars after the first, to the sum of one thousand dollars, two per cent ; for each hundred dollars after, to five thousand dollars, one and a half per cent ; for all sums above five thousand dollars, three quarters per cent : provided, that no per centage shall be allowed to the sheriff on any moneys made on such executions, or order of seizure, over and above the amount for which the execution issued.

Each conveyance of lands or slaves sold under the execution, - - -	\$1 50
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For serving summons for contempt, and bringing party into court, - - -	1 50
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For empannelling and calling petty jury, - - -	1 50
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For serving <i>venire</i> for grand or petty jury, - - -	2 50
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For serving writ of <i>habeas corpus</i> , and return, - - -	2 00
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For taking bail bond, - - -	1 00
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Attendance in the supreme court, per day, - - -	2 00
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²⁶² Keeping and maintaining a prisoner in jail per day, - - -	37½
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Keeping and maintaining a negro in jail, - - -	25
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²⁶¹ Part of § 3, act of 28 March, 1813, 1 D. 464.

²⁶² An act of 17 March, 1820, 2 D. 279, provides—

Section 2. The fees for keeping and maintaining persons in confinement, allowed by the fee bill established in eighteen hundred and thirteen, shall only apply to state prisoners, and those confined on criminal charges and breaches of the peace.

Executing any condemned person and expenses incident, to be paid by the parish, - - - -	\$12 00
For serving any order of court not otherwise provided for, ²⁰³ - - - - -	75

ART. CCCCXXXVI.²⁰⁴ The several sheriffs throughout the state, shall be entitled to demand and receive six and one quarter cents for every mile they may actually and necessarily travel, in going and returning from the service of any process; but this [article] shall be so construed as to allow mileage only to and from where the process was actually served to the seat of the court from whence such process may have been issued, and in no case shall mileage be allowed for a greater distance than the place of residence of the person on whom the process was served.²⁰⁵

ART. CCCCXXXVII.²⁰⁶ When there are more than one

²⁰³ So much of this section as relates to the fees of sheriffs for services which can only be rendered in civil cases, is omitted.

²⁰⁴ § 1, act of 7 March, 1814, 1 D. 470.

²⁰⁵ This section reads, as originally passed—"but this section shall *not* be so construed as to allow mileage only to and from," &c.; the word "*not*" is omitted, as a palpable clerical error. The french text reads, "pourvu toutefois que cette section ne soit pas interprétée de manière à accorder d'autres frais de route, que ceux qui seront légalement dus pour aller au domicile de la personne à laquelle ledit ordre ou mandat doit être notifié, pour revenir du domicile de ladite personne au lieu des séances de la cour," &c. which is not a translation of the english text. So much of the act in the text as relates to constables, is omitted, having been re-enacted by § 4 of the act of 20 February, 1817, 1 D. 406, art. CCCCLXXI. See also note 327. *post*.

An act of 1 February, 1822, 2 D. 381, provides that—

"The sheriff of the parish of Plaquemine shall, in lieu of the compensation now allowed, be entitled to have and receive the sum of fifty cents, for every mile going and returning, for the service of process, whether civil or criminal, in all cases in which he shall be obliged to travel by water in order to serve such process, to be recovered and received in the manner now provided by law for the recovery of sheriff's fees; provided, that the said sheriff, before he be entitled to receive such increase of compensation, shall make oath that in the case wherein the charge was made, he could not have travelled by land."

²⁰⁶ § 2, act of 7 March, 1814, 1 D. 470.

person named in any process, the officers shall only be allowed mileage to the farthest, and from thence to the others named in said process.

ART. CCCCXXXVIII.²⁶⁷ The several sheriffs throughout the state shall hereafter retain ten per centum on the amount of money made on any executions [²⁶⁸against any person, principal or surety, who may have entered into any bond, recognizance, or obligation whatsoever, for appearance or attendance at court], which may come into their hands in lieu of all other fees thereon.

ART. CCCCXXXIX.²⁶⁹ The several sheriffs throughout this state shall be entitled to receive the following fees, and no more, for conveying prisoners from one parish to another, or conducting them from any part of the state to the jail or penitentiary at [²⁷⁰Baton Rouge]: for mileage, the sum of twenty-five cents per mile for each and every mile he necessarily and actually travels by land, both going and returning; to defray the expenses of one prisoner, he shall receive the sum of sixteen cents for each mile such prisoner is necessarily and actually conveyed by land; to defray the expenses of two prisoners, he shall receive an additional sum of twelve cents for each mile such prisoners are conveyed as aforesaid; to defray the expenses of three prisoners, he shall receive an additional sum of ten cents for each mile such prisoners are conveyed as afore-

²⁶⁷ § 4, act of 11 March, 1837, p. 99.

²⁶⁸ See § 1, *ibid*.

²⁶⁹ § 1, act of 23 March, 1824, 2 D. 277.

²⁷⁰ The 2d section of the act of 10 March, 1834, p. 100, after providing, art. DXLIX, *post*, that all convicts sentenced to imprisonment at hard labor, shall be conveyed by the sheriff of the parish in which the prisoner was convicted, to the penitentiary at Baton Rouge, adds, "that for such services the sheriffs of the several parishes shall be allowed the same rate of mileage now accorded them for conducting convicts to New Orleans; provided, that the delivery of said convicts be subject to the formalities required by the existing laws."

said; and for each additional prisoner, he shall receive an additional sum of ten cents for each mile they are conveyed as aforesaid; and he shall further receive for every two prisoners conveyed as aforesaid, the sum of twenty cents for each mile, going and returning, for the purpose of procuring a necessary guard.

ART. CCCCXL.²⁷¹ The said sheriff shall receive the following sums, and no more, for transporting and conveying a prisoner or prisoners by water, in places where no steamboat is running at the time: for mileage, the sum of twenty-five cents per mile for each mile he may necessarily and actually travel by water as aforesaid, both going and returning; for the expense of one prisoner, he shall receive the sum of twelve cents per mile, and for each additional prisoner conveyed as aforesaid, an additional sum of ten cents per mile; and he shall further receive, for every two prisoners conveyed as aforesaid, the sum of twenty cents per mile, going and returning, for the purpose of enabling him to procure a necessary guard.

ART. CCCCXLI.²⁷² The said sheriffs shall receive the following sums, and no more, for conveying a prisoner or prisoners by water, in places where a steamboat is running at the time, or may run at any reasonable time after such conveyance is ordered, except where such steamboat be a privileged ferry, and the rates fixed by law, in which case they may charge the same rates as are specified in the [last article] for conveyance by water: for mileage, the sum of fourteen cents for each mile he necessarily and actually travels by water as aforesaid, both going and returning; for the expenses of one prisoner conveyed as aforesaid, he shall receive the sum of ten cents per mile; for each additional prisoner thus conveyed, he shall receive an additional sum of four cents for each mile;

²⁷¹ § 2, act of 23 March, 1824, 2 D. 277.

²⁷² § 3, *ibid*, 278.

and he shall receive, for every two prisoners conveyed as aforesaid, the sum of twelve cents for each mile going and returning, for the purpose of enabling him to procure a necessary guard.

ART. CCCCXLII.²⁷³ No sums shall henceforth be paid by the treasurer of the state to any sheriff, for any services specified in [articles CCCCXXXIX, CCCCXL, CCCCXLI, and CCCCXLV], unless his account shall name the prisoner or prisoners so conveyed, and also name the guard or guards when any are employed agreeably to the provisions of [the said articles], and the different distances by land or water, and mode of conveyance, and when a steamboat is used, the name of such steamboat; and such account, when certified by the district judge or judge of the criminal court, as being correct as regards the distances, mode or modes of conveyance, and rates, in conformity to [the provisions of the above mentioned, and two succeeding articles], then the amount of such account shall be paid on the warrant of such judge by the state treasurer.

ART. CCCCXLIII.²⁷⁴ In all cases where it is practicable for the sheriffs to travel the whole distance, or any part thereof, either by land or water, in any of the three modes of conveyance contained in [articles CCCCXXXIX, CCCCXL, and CCCCXLI], the district judges shall not certify any sheriff's account, unless it appears that the sheriff has charged the state with that mode of conveyance which will amount to the lowest sum, according to the rates specified in the [said articles].

ART. CCCCXLIV.²⁷⁵ The distance for which sheriffs are to be paid under [articles CCCCXXXIX, CCCCXL, CCCCXLI, and CCCCXLV], is to be computed from the jail

²⁷³ § 4, act of 23 March, 1824, 2 D. 278.

²⁷⁴ § 5, *ibid.*

²⁷⁵ § 6, *ibid.*, 279.

of the parish from whence the prisoner or prisoners were removed, to the jail or penitentiary in this state, to which the said sheriff or sheriffs were ordered to conduct said prisoner or prisoners, and where they did actually deliver them.

ART. CCCCXLV.²⁷⁶ All carriages made on board of sloops, schooners, or other sea vessels, where such vessels usually run, shall be charged at the same rates as are prescribed in [article CCCCXLI], for conveyances made on board of steamboats.

ART. CCCCXLVI.²⁷⁷ The sheriffs of the state, except the sheriff of the parish of Orleans, [²⁷⁸of the criminal court of the first district sitting in New Orleans, of the district court of the first district, of the commercial court of New Orleans, and of the county of German Coast], shall be allowed, for their services in criminal prosecutions, and all *ex officio* services, a sum not exceeding eighty dollars,²⁷⁹ which allowance shall

²⁷⁶ § 7, act of 23 March, 1824, 2 D. 279.

²⁷⁷ § 3, act of 20 February, 1817, 1 D. 472.

²⁷⁸ The act of 1817, in the text, does not extend to the sheriffs named between brackets. The sheriff of the parish of Orleans since the act of 18 March, 1840, p. 40, creating the "sheriff of the criminal court of New Orleans," and the sheriffs of the district court of the first district, and of the commercial court of New Orleans, discharge no services in criminal prosecutions; the "sheriff of the criminal court of New Orleans" was declared by § 4, of the act of 18 March, 1840, p. 41, creating the office, to be entitled to "the same profits and emoluments" as the sheriff of the parish of Orleans, who was excepted from the provision of the act in the text; and an act of 28 January, 1828, p. 16, though it expressly declares that the article in the text shall be "applicable to the sheriff of the county of German Coast," provides "that a sum which shall not exceed one hundred and sixty dollars per annum, shall be allowed to said sheriff, for services rendered in criminal prosecutions, and other services rendered *ex officio* in his aforesaid capacity of sheriff of the county of German Coast."

²⁷⁹ § 14, act of 28 March, 1813, 1 D. 468. The act of 1817 declares that this allowance shall "be paid in the manner provided for in the act to which this is a supplement," i. e. in the act of 28 March, 1813.

annually be made²⁸⁰ by the district judge, and shall be paid out of the public treasury on the warrant of the judge.

CORONERS.

ART. CCCCXLVII.²⁸¹ The governor shall appoint for each parish of this state, a coroner, who shall be a resident of the parish for which he shall be appointed.²⁸²

ART. CCCCXLVIII.²⁸³ The said coroner shall be, *ex officio*, a conservator of the peace, within the extent of his parish.

ART. CCCCXLIX.²⁸⁴ Every coroner shall be bound, previous to entering into the duties of his office, to enter into bond in the parish court of his parish, payable to the governor and his successor in office, in such sums and such surety as the parish judge shall require, not however exceeding one half of the sum required of the parish sheriff, for the performance of his duty ; which bond shall be recorded in the office of the clerk of the parish, and a copy thereof shall, within three months, be transmitted by said clerk to the treasurer of the state ; and the said coroner shall be liable to be prosecuted on said bond, as is provided for the prosecution of the sheriff on his bonds.

ART. CCCCL.²⁸⁵ It shall be the duty of said coroner²⁸⁶

²⁸⁰ This article is misprinted in Moreau Lislet's Digest, as well as in the publication of the act in 1813, reading—"shall annually be *paid* by the district judge;" the error is corrected in the text, from the original act.

²⁸¹ § 6, act of 21 January, 1814, 1 D. 285.

²⁸² See § 1, act 10 March, 1835, p. 55, note 255, *ante*, declaring the office of coroner vacant, in case of his permanent removal from the parish for which he was appointed.

²⁸³ § 9, act of 21 January, 1814, 1 D. 285.

²⁸⁴ § 13, *ibid*, 286.

²⁸⁵ § 7, *ibid*. 235

²⁸⁶ The 13th section of the act of 31 March, 1807, 1 D. 634, had provided

whenever a murder shall have been committed within his parish, or whenever a person shall be found dead the cause of whose death shall be unknown, to summon a jury of inquest, composed of four or six freeholders, for the purpose of going with him to the spot where the dead body shall lie, and then to ascertain by the examination of said body and of the wounds, in what manner the person has come by his death: provided, that if the said jury deem it necessary to call one or several physicians, with a view of obtaining his or their opinion on the subject, the said coroner shall be authorized to summon, at the cost of the parish, a physician or physicians, who being thus called shall be entitled, if they require it, to receive as a compensation the sum of ten dollars, which sum shall be paid by the treasurer of the parish, on an order drawn by the said jury and the said coroner.²⁸⁷

that—"in case a person shall be found killed or dead suddenly, the parish judge, or any justice of the peace, shall repair immediately to the spot, and the said judge or justice shall cause a jury of six persons of the vicinity to be summoned, in order to examine the situation of the body, the manner in which his or her death may have been caused, the marks which he or she may bear of any blows, wounds, &c., and with what instrument or weapons they may have been made; and the said judge or justice shall, at the same time, summon all witnesses to depose on the circumstances to them known; after which the jury shall deliver their verdict on the cause of the death, which verdict, if delivered to a justice of the peace, shall by said justice be directed to the judge of the parish, to be by said judge sent to the clerk of the superior court, there to be evidence before the grand or petty jury, at the time of trial."

This section is inserted in Moreau Lislet's Digest as still in force, though omitted in the earlier Digest of Martin, as repealed. The language of the text that "*it shall be the duty of the coroner whenever a murder shall have been committed*" &c., and the general provisions of the act, lead to the belief that it was the intention of the legislature to transfer the power of holding such inquests to the coroner, and to repeal the former laws on the subject.

²⁸⁷ An act of 12 March, 1838, p. 78, provides—

"That the services of the coroner, the doctor's fees, and generally all the expenses incurred by coroner's inquests, shall be at the charge of the city of Lafayette when the inquest shall have been made within the limits of the said city of Lafayette, and at the charge of the police jury of the parish of Jefferson, when said inquest shall have been made out of the limits of said city in the parish of Jefferson."

ART. CCCCLI.²⁸⁸ In the case provided for in the preceding [article], it shall be the duty of said jury being then assembled, to draw their inquest jointly with the coroner of the situation of the dead body, and thereon to express their opinion of the manner in which the said person may have come by his death ; which inquest thus drawn shall be signed by all the members of the said jury, as well as by the coroner, and shall be transmitted by said coroner to the clerk of the district court within the jurisdiction [of] which the parish is included, to be used as the law directs before the grand jury, in case a prosecution takes place ; and if by such inquest the jury finds any person guilty of the death of the person thus found dead, it shall be the duty of the said coroner to arrest, and to conduct before one of the magistrates of the said parish, the person deemed guilty, to be examined and imprisoned as the case may require.

ART. CCCCLII.²⁸⁹ In case the person so found dead, as is mentioned in [article CCCCL], should have in the parish neither relations nor friends willing to take charge of his burial, it shall be the duty of the coroner to cause such person to be interred ; and the expenses incurred for that purpose shall be paid by the treasurer of the said parish, if the person so found dead leaves not sufficient property, on an order drawn by the said coroner and the said jury of inquest.²⁹⁰

ART. CCCCLIII.²⁹¹ The said coroner shall receive for his services the following fees, to wit :
For taking up and causing the dead body to be buried, \$15 00²⁹²

²⁸⁸ § 8, act 21 January, 1814, 1 D. 285.

²⁸⁹ § 11, *ibid*, 286.

²⁹⁰ See note 287, *ante*.

²⁹¹ Part of § 12, act of 21 January, 1814, 1 D. 286.

²⁹² The remainder of this section, in the original act, provides, that the coroner "shall moreover be entitled to demand and receive, when such services are rendered, the fees prescribed by the seventh section of the act entitled an act "to establish an explicit fee bill," passed on the twenty-eighth of

For receiving a dead body - - - - - \$5 00
 For swearing and qualifying a jury, and administering
 oath on the inquiry relative thereto, and returning
 the process verbal, - - - - - 5 00
 For summoning and swearing witnesses, each, - 12½
 When exercising the duties of sheriff, he shall be en-
 titled to demand and receive the same fees allowed to that
 officer.

ART. CCCCLIV²⁹³ The coroner shall, in all suits where-
 in the sheriff is a party, or in which he may be²⁹⁴ interested,
 execute and perform all the duties which by law ought to
 have been executed and performed by such sheriff, if he were
 not interested therein ; and such person so named and appoint-

March, eighteen hundred and thirteen." This section, 1 D. 467, is inserted in
 the text.

²⁹³ § 16, act of 10 April, 1805, 1 D. 284.

²⁹⁴ The word "*directly*" which occurs in this place in the original act of
 1805, is omitted, as virtually repealed by the 10th section of the act of 21
 January, 1814, 1 D. 286, which for any thing more is a mere repetition of the
 first part of the section of the act of 1805, in the text, unless the words "in
 any case or suit whatever" in the act of 1814, should be considered more com-
 prehensive than the words "in all suits" in the act of 1805. With this excep-
 tion, the second section of the act of 10 February, 1808, and (with the excep-
 tion of such change as may be supposed to have been effected in the section of
 the act of 10 April, 1805, in the text, by the more comprehensive terms of § 2
 of the act of 10 February, 1808, which prescribes that the coroner shall, in
 case of the vacancy of the office of sheriff, "exercise the *duties*" of that offi-
 cer, instead of confining the former, as in the act of 1805, to the discharge of
 "the duties *by that act enjoined*,") the tenth section of the act of 21 January,
 1814, are of no effect, as they merely re-enact what was the law before.
 These sections are subjoined :

Section 2. In case of the vacancy of the office of sheriff by death, resigna-
 tion, or removal from office, the coroner shall exercise the duties of sheriff un-
 til the appointment of a successor to fill the vacancy so occasioned by death,
 resignation of or removal from office, as aforesaid.

Act 10 February, 1808, 1 D. 284.

Section 10. Whenever the sheriff of one parish shall be interested in any
 case or suit whatever, then all the duties which the law imposes on sheriffs in
 such cases or suits shall devolve on the coroner of the said parish.

Act 21 January, 1814, 1 D. 286.

ed, shall have in such suits all the powers, receive all the emoluments, and be liable to all the responsibilities of the sheriff of the [parish]; and shall with the same powers and rights, and under the same responsibility, execute all the duties [of]²⁹⁵ the sheriff, whenever the said office shall become vacant, until a sheriff be appointed and sworn.

JUSTICES OF THE PEACE.

ART. CCCCLV.²⁹⁶ No person shall hold or exercise the office of justice of the peace in the state, who is not a citizen of the United States, and, except in the city of New-Orleans, a freeholder in the district for which he is appointed,²⁹⁷ any thing in any law to the contrary notwithstanding;²⁹⁸ and any senator

²⁹⁵ The act in the text, as originally passed, reads—"execute all the duties by this act enjoined on the sheriff." The second section of the act of 10 February, 1808, 1 D. 284, see last note, declares, in more comprehensive language, that in case of any such vacancy, the coroner "shall exercise *the duties of the sheriff*;" in conformity with which the act is amended in the text. The word "*parish*" between brackets is inserted in place of "*county*" as in the original, sheriffs of the *parish* having been substituted (see art. CCCXXXI.) for the county sheriffs in existence at the date of the act in the text.

²⁹⁶ § 11, act of 28 March, 1813, 1 D. 637.

²⁹⁷ See § 1, act of 10 March, 1835, p. 55, note 255, *ante*, declaring the office of any justice of the peace vacant, in case of his permanent removal from the parish for which he was appointed.

²⁹⁸ The act of 19 February, 1825, 1 D. 350, provides—

Section 19. The governor shall be and he is hereby requested to appoint, by and with the advice and consent of the senate, the mayor, recorder, and aldermen of the city of New Orleans, for the time for which they are elected, justices of the peace; and as such they shall have and exercise all the jurisdiction, and do and perform all acts, in criminal causes only, that the justices of the peace are now authorized and required to perform, but shall not be permitted to take or receive any fees or compensation thereupon.

The act of 8 March, 1836, p. 28, divided the city into three municipalities, and provided that a recorder and aldermen should be appointed for each of these divisions, with "powers and duties the same within the limits of their respective municipalities as they now are in the said city of New Orleans;" see § 8, p. 32.

Another section of the same act, p. 35, declares—

Section 19. That the recorder of each of the municipalities shall possess,

or representative who shall be appointed a justice of the peace, during the term for which he was elected, or for one year thereafter, shall in no case be entitled, or allowed to receive any fees or compensation for services rendered, or duties performed, in his capacity as a justice of the peace.

within the limits of his municipality, all the powers, and perform all the duties, now fixed by law; and shall besides exercise within the limits of his municipality all the duties as magistrate and conservator of the peace, concurrently with the mayor of the city of New Orleans; and in case of the death of the mayor, or his inability to perform his duties as chief magistrate of the city, the recorder elected by the middle municipality or city proper, shall act as mayor.

A previous section of this act, p. 33, provides—

Section 12. That if any person charged with having committed any crime or misdemeanor in one municipality, escapes into, or is found in either of the other municipalities, such offender may be arrested on the warrant of the recorder of either of the municipalities in which the offence was committed, or in that in which he is found, and by the officers of either municipality.

The powers of the mayor remain as they were before the act of 1836.

In the acts of incorporation of the different towns throughout the state provisions have been generally introduced, by which the governor is requested to commission the mayor, or other presiding officer of the town, a justice of the peace within the limits of each incorporation. See for the town of *Baton Rouge*, act of 16 January, 1817, 1 D. 86; *St. Francisville*, § 1, act of 8 February, 1817, 2 D. 545; *Natchitoches*, § 3, act of 5 February, 1819, 2 D. 78; *Alexandria*, § 4, act of 24 February, 1819, 1 D. 15; *St. Martinsville*, act of 21 March, 1832, p. 106; *Covington*, § 9, act of 2 April, 1832, p. 184; *Lafayette*, (the president of the board of council), § 5, act 1 April, 1833, p. 145, continued in force by act of 13 February, 1840, p. 6; *Monroe*, act of 25 January, 1834, p. 14, reviving act of 14 March, 1820, § 15, 2 D. 66; *Harrisonburg*, § 5, act of 14 March, 1836, p. 173; *Port Hudson*, § 4, act of 5 March, 1838, p. 33; *Springfield*, § 5, act 12 March, 1838, p. 93; *Shreveport*, § 4, act 20 March, 1839, p. 202; *Mandeville*, § 7, act of 24 March, 1840, p. 78. By the act of 22 March, 1832, § 2, p. 108, the intendant of the town of *Madisonville*, and by the act of 10 March, 1838, § 3, p. 71, the mayor of the town of *Thibodeaux*, are *ex officio* justices of the peace.

An act of the 13th of March, 1830, p. 56, concerning the parish of Claiborne, provides—

Section 2. That in order to hold the office of justice of the peace, in said parish, no other property qualification shall be necessary than that required to be a qualified voter of said parish, any law to the contrary notwithstanding.

ART. CCCCLVI.²⁸⁹ No justice of the peace, or other person,³⁰⁰ shall perform or exercise the functions of justice of the peace, unless by virtue of a commission under the authority of the state of Louisiana.

ART. CCCCLVII.³⁰¹ There shall be at least one justice of the peace appointed in every captain's district, except in the city of New-Orleans,³⁰² who shall possess and exercise the same powers and duties in criminal cases as have hitherto been assigned them, without being limited in their respective districts.³⁰³

ART. CCCCLVIII.³⁰⁴ The justices of the peace shall be conservators of the peace, in their respective parishes.

ART. CCCCLIX.³⁰⁵ It shall be the duty of any justice, or justices of the peace, to receive all the complaints which shall

²⁸⁹ § 1, act of 28 March, 1813, 1 D. 636.

³⁰⁰ The words "except the mayor and recorder of New Orleans" which occur in this place in the original act, are omitted, as having been virtually repealed by § 19 of the act of 19 February, 1825, 1 D. 350. So much of the 11th section of the act of 17 February, 1805, 2 D. 114, as constitutes the mayor and recorder of New Orleans justices *ex officio*, is virtually repealed by the same act.

The intendant of the town of Madisonville by the act of 22 March, 1832, § 2, p. 108, and the mayor of the town of Thibodeaux by the act of 10 March, 1838, § 3, p. 71, are made *ex officio* justices of the peace within the limits of their respective corporations, and are exceptions to the law in the text.

³⁰¹ Part of § 2, act of 28 March, 1813, 1 D. 636.

³⁰² An act of 5 March, 1841, p. 49, provides for the appointment of a justice of the peace for the town of Milneburg, with the same jurisdiction, fees, &c. as other justices in the parish of Orleans, but limited to "the said town, and the establishments on the shores of lake Pontchartrain within the parish of Orleans."

³⁰³ The portion of this section, not inserted in the text, relates to the jurisdiction of justices in civil cases.

³⁰⁴ Part of § 9, act of 28 March, 1813, 1 D. 637.

³⁰⁵ § 5, act of 20 February, 1817, 1 D. 406.

be presented to them respectively, with respect to criminal prosecutions, under the penalty of being removed from office.

ART. CCCCLX.³⁰⁶ It shall not hereafter be necessary for any justice of the peace in this state, to affix his seal to any warrant, or commitment, or to any other act, or document by him executed as justice of the peace; but his signature to the same, certifying that he is [a] justice of the peace, shall be full and entire proof of the authenticity of such act.

ART. CCCCLXI.³⁰⁷ Every justice of the peace is authorized, in his district, upon information or evidence received under oath, to go personally, or to send an order to any constable or any other person, requesting him to order the attendance of such a number of persons as he may think proper to disperse any number of runaway slaves, or others, who may act against the public peace, and also to search all such places where arms, ammunition, or stolen goods may be supposed to be concealed. And every constable, or other person, who shall be so required by the justice to aid or assist, and shall refuse to obey, without lawful cause, shall be condemned by the said justice in a fine of twenty dollars.

ART. CCCCLXII.³⁰⁸ The justices of the peace throughout this state, excepting in the parishes of Orleans and Assumption, are authorized to employ either the sheriff, or his deputy, to execute all orders, citations, summons, seizures, and writs in criminal cases.

ART. CCCCLXIII.³⁰⁹ The justices of the peace shall be

³⁰⁶ § 2, act of 13 March, 1818, 1 D. 386.

³⁰⁷ § 34, part 1, act of 7 June, 1806, 1 D. 109. The part of this section relating to the power of justices to apprehend and prosecute slaves, is not inserted in the text; the laws for the punishment of offences committed by them, not having been included in the plan of this digest.

³⁰⁸ Act of 16 March, 1827, 1 D. 643.

³⁰⁹ Part of § 9, act of 28 March, 1813, p. 188. This section is not to be found in Moreau's Digest, the compiler having, incorrectly, supposed it repealed.

entitled to demand and receive the following fees, and no other, to wit :

For issuing warrant in behalf of the state, - - -	\$0 25
For each summons for witnesses - - -	0 6 $\frac{1}{4}$
For administering an oath, and signing the same, when necessary, - - - - -	0 12 $\frac{1}{2}$
For administering an oath, and writing the same, for each twenty words - - - - -	0 6 $\frac{1}{4}$ ³¹⁰

ART. CCCCLXIV.³¹¹ All proceedings had before any parish judge, or justice of the peace, in criminal prosecutions, breaches of the peace, and all other cases where the state shall be a party, shall be paid by the parish in which said proceedings shall have been had, out of the parish funds of said parish, on the certificate of the parish judge thereof.

JUDGES OF THE PARISH COURTS.

ART. CCCCLXV.³¹² The parish judges shall have and possess all and singular the same powers, and perform the same duties in, and in relation to their respective parishes,

³¹⁰ This section was repealed by § 23 of the act of 19 March, 1816, 1 D. 640, but revived by § 4 of the act of 20 February, 1817, 1 D. 406, which provides, that "in all criminal cases the justices of the peace throughout the state, shall receive their fees agreeably to the ninth section of the act approved on the twenty-eighth of March, one thousand eight hundred and thirteen; and in no criminal prosecution the said justices of the peace shall, under any pretence whatever, receive any other fees but those prescribed by the aforesaid ninth section."

The ninth section of the act of 28 March, 1813, provides that the fee allowed by it for issuing a warrant in behalf of the state, shall "be paid by the parish." These words are omitted in the text, being embraced in the more general provision of the first section of the act of 20 February, 1817, 1 D. 405, art. CCCCLXIV. The other parts of the ninth section of the act of 28 March, 1813, not inserted in the text, relate to the fees of justices of the peace in civil cases.

³¹¹ § 1, act of 20 February, 1817, 1 D. 405.

³¹² § 25, act of 31 March, 1807, p. 42.

as the justices of the peace³¹³ now have, and are bound to fulfil in, and in relation to their respective [parishes], by virtue of [articles CCLXXXIX, CCCCLXXXII, and CCCCLXXXVIII.]³¹⁴

ART. CCCCLXVI.³¹⁵ In the criminal causes within their jurisdiction the parish judges are hereby authorized to charge the following compensations :

For issuing a warrant in a criminal prosecution	- \$1 00
For each summons for witnesses,	- - - 12½
For taking their depositions, and writing the same, if	
necessary, each,	- - - - - 25

³¹³ This act reads as originally passed—"as the county judges and justices of the peace now have, and are bound to fulfill in, and in relation to their respective counties, &c." The omission in the text, of the words "county judges," and the change of the word "counties" to "parishes," will be found, on an examination of the acts referred to, not to have altered in any degree the effect of the original section of the act of 1817, so far as it relates to the powers of the parish judges in criminal matters.

³¹⁴ The original act reads—"by virtue of an act 'entitled an act concerning county funds,' and by virtue of an act, entitled 'an act relative to the judges of the county courts, and justices of the peace in the territory of Orleans,' save so far as may be in contradiction to the express provisions of this act." The first of these acts (of the legislative council of 3 May, 1805, p. 384) provided for the levying and collecting a tax by the judge of the county court, with the advice of a majority of the justices, for erecting a court-house, erecting and maintaining a jail, answering the expenses of prosecuting insolvent criminals, &c. ; and so much of the latter (act of the legislative council of 3 May, 1805, p. 388) as confers any power on the parish judges in criminal matters, and is still in force, forms the articles referred to in the text, with this exception : that the 4th section of this last act, which was re-enacted, with such alterations only in the language as were made necessary by the change from a territorial to a state government, by the 14th section of the act of 6 March, 1819, 1 D. 400, art. CCCCLXXXVIII, is omitted, and the 14th section of the act of 1819 substituted for it, in the reference in the text.

The 12th section of the act of 31 March, 1807, 1 D. 337, declares that "the judge of the parish shall not have any criminal jurisdiction on the free persons of his parish."

See § 13, act 31 March, 1807, 1 D. 633, art. CCCCLXXXIII, for duties of parish judge where complaint of any crime or offence is brought before him.

³¹⁵ Part of § 2, act of 14 April, 1807, p. 58.

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For examination of the party, and writing the same, \$1 00

For a recognizance of the party or of the witnesses,
in the cases directed by law, - - - - 25³¹⁶

JUDGES OF THE CITY COURT OF NEW ORLEANS.

ART. CCCCLXVII.³¹⁷ The judges [of the city court of New Orleans] shall be severally conservators of the public peace; and it shall moreover be their duty to receive all informations of crimes and misdemeanors, alleged to have been committed within their territorial jurisdiction,³¹⁸ to receive all affidavits and depositions in relation thereto, and commit the same to writing, to issue all necessary warrants and orders for apprehension of persons accused, and subpœnas for witnesses to be directed to and served by the marshal, to commit to writing the voluntary declarations of the accused, to discharge from arrest,³¹⁹

³¹⁶ See art. CCCCLXIV, *ante*, for the mode of paying the expenses of criminal proceedings had before parish judges.

³¹⁷ § 18, act of 19 February, 1825, 1 D. 349.

³¹⁸ A previous section of the act of 19 February, 1825, establishing the city court, provides, p. 344—

Section 2. For the administration of justice in that part of the parish of Orleans comprised within the following limits, to wit: beginning at the Nun's plantation above the city of New Orleans, and extending below said city as far as the canal des Pécheurs, including the settlements of the bayou St. John, being the same limits as defined by the act of the legislature of the state of Louisiana, approved September the first, eighteen hundred and twelve, there shall be constituted a court, composed of one presiding judge and [six—see acts of 9 March, 1831, p. 66, and 31 March, 1832, p. 146] associate judges, to be appointed by the governor, by and with the advice and consent of the senate, with emoluments, powers, and duties as are hereinafter described, to be called "*The City Court of New Orleans*."

An act of 9 March, 1827, 1 D. 358, declares—

Section 1. That the several city courts established by the act entitled "an act to organize the city court of New Orleans, and for other purposes," shall have on the whole breadth of the river, situated within the limits regulated by the act of the legislature of the state of Louisiana, approved September the first, one thousand eight hundred and twelve, a jurisdiction equal in every respect to that which the law has ascribed to them within the aforesaid limits.

³¹⁹ The act of 9 March, 1827, 1 D. 359, provides—

Section 5. Whenever a complaint has been made for any breach of the

to admit to bail in all bailable cases, to commit to prison for trial or further examination, and to take recognizances from parties or witnesses to appear before the criminal court of the first district; and it shall moreover be the duty of said judges to send all such documents, so by them taken in relation to the arrest or examination of persons so accused, to the clerk of said criminal court.³²⁰

ART. CCCCLXVIII.³²¹ Any of the judges of the said city

peace, which is not subject to be criminally prosecuted in consequence of any provisions of the statutes of this state, the city judges, or any other justice of the peace of the parish of New Orleans, before whom the said complaint shall have been made, shall, in binding the party so offending to give security to keep the peace, condemn him to pay the costs incurred by said denunciation for the benefit of the said parish.

³²⁰ The act of 19 February, 1825, 1 D. 352, provides—

Section 27. All the powers which were vested in the justices of the peace whose offices are vacated by this act, and the duties which were imposed upon them by law, shall be exercised or discharged by any of the said presiding and associate judges, in whatever is not contrary to the provisions of this act, or repugnant to the same.

The judges of this court are not allowed any compensation for their services in criminal cases. The act of 19 February, 1825, organizing the court, fixed the salaries of the presiding and associate judges, and provided, 1 D. 350—

Section 22. The said salaries shall be in full satisfaction for all the services [rendered] by the said judges, in civil as well as in criminal cases; and if said judges, or either of them, shall ask, demand, or receive any further or other compensation for services rendered under the provisions of this act, they shall be considered guilty of a misdemeanor, and shall, on conviction, suffer the pains and penalties prescribed by the statutes of this state for extortion or oppression in office.

The salary of the presiding judge was raised by the subsequent acts of 1 April, 1835, § 3, p. 179, and of 10 March, 1838, § 6, p. 57, to four thousand dollars.

An act of 24 March, 1828, § 1, p. 132, provided—

Section 1. That the associate judges of the city court of New Orleans are hereby authorized to demand and receive, as their fees, the same sums which they now receive arising from the taxable costs on suits brought before them; which sums shall always be paid in advance, and shall be a full and entire compensation for their services, all laws to the contrary notwithstanding.

None of the judges of this court have a right to practise law in any of the courts of the state, see § 21, act 19 February, 1825, 1 D. 350.

³²¹ § 22, act of 16 March, 1826, 1 D. 357.

court shall have power to appoint persons, *ad hoc*, to execute any writ or process in criminal matters.³²³

CONSTABLES.

ART. CCCCLXIX.³²³ The police juries are hereby empowered to appoint the constables in their respective parishes, and to remove them from office.

ART. CCCCLXX.³²⁴ The several constables throughout the state, shall be entitled to demand and receive the following fees, and no others, to wit :

For serving a state warrant to be paid by the parish,	\$0	50
Summoning each witness, - - - - -	0	50
For conveying a prisoner to jail, - - - - -	1	00
Serving peace or search warrant, - - - - -	1	00
Serving attachment, - - - - -	0	50 ³²⁵

ART. CCCCLXXI.³²⁶ The several constables throughout the state, shall, in criminal cases, be entitled to demand and receive six and a quarter cents per every mile they may actually and necessarily travel, in going to and returning from the service of any process.³²⁷

³²² The act of 19 February, 1825, organizing the city court of New Orleans, provides, 1 D. 350—

Section 20. For all services and duties performed by the marshal, or his deputies, in relation to the criminal matters provided for by this act, he shall be entitled to have and receive from the parish of Orleans, the sum of [one thousand—see § 2, act of 9 March, 1827, 1 D. 359] dollars annually, to be paid by the treasurer, quarterly, on the warrant of the presiding judge, countersigned by the clerk of the court, and which shall be in full satisfaction for the same.

³²³ Part of § 5, act of 25 March, 1813, 2 D. 241.

³²⁴ Part of § 10, act of 28 March, 1813, 1 D. 467.

³²⁵ The part of this section, not inserted in the text, relates to the fees of constables in civil cases.

The first clause of the 4th section of the act of 20 February, 1817, 1 D. 406, so far as it relates to constables, enacted what was already the law at the time.

³²⁶ Part of § 4, act of 20 February, 1817, 1 D. 406.

³²⁷ The first section of the act of 7 March, 1814, 1 D. 470, of which, so

ART. CCCCLXXII.³²⁸ When there are more than one person named in any process, the officers shall only be allowed mileage to the farthest, and from thence to the others named in said process.

far as it related to constables, the article in the text was but a re-enactment, after providing for the compensation of constables as in the text, contained a further provision for the purpose of guarding against any misinterpretation of its meaning, declaring, that "it should *not* be so construed as to allow mileage only to and from where the process was actually served to the seat of the court from whence such process may have been issued, and in no case shall mileage be allowed for a greater distance than the place of residence of the person on whom the process was served;" the word *not* is in the original bill as enrolled, evidently by mistake. The article in the text should be construed in conformity to this provision.

³²⁸ § 2, act of 7 March, 1814, 1 D. 470.

CHAPTER III.

SUMMARY JUDGMENTS.

CCCCLXXIII—V. *Judgment against principal or surety in any bond, recognizance, or other obligation for appearance or attendance at court.*

ART. CCCCLXXIII.¹ It shall be the duty of the attorney general, and the several district attorneys in their respective districts, on the second or any other day thereafter of each regular term of the criminal court of New Orleans, or of the district court, leave of the court first had and obtained, which leave shall always be presumed, to call any or all person or persons who may have entered into any bond, recognizance, or obligation whatsoever, for their appearance or attendance at court, and also to call on the surety or securities to produce instanter in open court the person of such defendant or party accused ; and upon failure to comply therewith, on motion of the attorney representing the state, the court shall forthwith enter up judgment against both principal and securities, *in solidum*, for the full amount of the bond, recognizance, or obligation ; which judgment, at any time during the same term of the court for all the parishes of the state except the parish of Orleans, and for said parish of Orleans at any time within ten judicial days after notice of said judgment to the parties, may be set aside upon the appearance, trial, and acquittal, or upon

¹ § 1, act 11 March, 1837, p. 99.

the appearance, trial, and conviction and punishment of the defendant or party accused : provided, that such judgment shall not be rendered, in case it shall be made to appear to the satisfaction of the court, by the evidence of one or more disinterested and creditable witness, that such defendant, or party accused, is prevented from attending by some physical disability existing at the time.²

ART. CCCCLXXIV.³ The appearance and answer of any defendant or party accused upon call made as provided for in the [last article], shall not operate as a discharge or release of any surety from his responsibility, and no such surety shall be discharged or released from his responsibility until the final trial, and conviction, or acquittal of such defendant or party accused ; provided however, that any surety may be relieved from responsibility by making a formal surrender of the defendant or party accused to the sheriff or his deputy, in open court, or within the four walls of the prison of the parish, and not otherwise.

ART. CCCCLXXV.⁴ It shall be the duty of the clerks of the several district courts out of the city of New Orleans, and of the criminal court of New Orleans, to issue notice of such judgments to the parties concerned as in ordinary civil cases, and on the service and return thereof, after the usual delay, to issue executions on all such judgments ; which it is made the duty of the several sheriffs through the state to execute without delay.

² This act virtually repeals the first section of the act of 13 March, 1818, 1 D. 386.

An act of 1 April, 1835, p. 179, provides—

Section 4. That all bonds and recognizances taken by the associate judges, mayor, or recorder, within the city of New Orleans, for the public peace, or in criminal matters generally, shall, when forfeited, be recovered by the city attorneys, for the use of the corporation of New Orleans, all laws to the contrary notwithstanding.

³ § 2, act 11 March, 1837, p. 99.

⁴ § 3, *ibid.*

CHAPTER IV.

ARREST, COMMITMENT, AND BAIL.

CCCCLXXVI—VIII. *Warrants of arrest.* CCCCLXXIX. *Privilege of members of the general assembly* CCCCLXXX. *Search warrant for concealed slave.* CCCCLXXXI. *Accused not to be forced to answer interrogatories—voluntary declaration to be taken by magistrate.* CCCCLXXXII. *Duty of justices of the peace where party charged with any crime or misdemeanor—* CCCCLXXXIII. *duty of parish judges.* CCCCLXXXIV. *Duty of justices where offence committed in one parish, and offender flies to another.* CCCCLXXXV. *Bail.* CCCCLXXXVI. *Witnesses for prisoner, when may be bound over.* CCCCLXXXVII. *Declaration before justices—what to contain.* CCCCLXXXVIII. *Depositions of witnesses for the state to be taken, and witnesses to be bound over.* CCCCLXXXIX. *Depositions of witnesses and declarations of accused, how disposed of.* CCCCXC—III. *Vagrants, how to be arrested and examined.* CCCCXCIV—VII. *Power of governor to deliver up persons found in this state, charged with certain offences committed out of the jurisdiction of the United States*

ART. CCCCLXXVI.¹ All warrants for the arrestation of any person, or persons, who shall have been accused of any

¹ § 10, act 6 March, 1819, 1 D. 399.

crime or misdemeanor, and issued by any judge or justice of the peace,² shall be executed throughout the state, and authorize the arrest of said person or persons, provided the said warrants be backed or endorsed by some magistrate of the parish where the said offender has fled or was found; and provided also, the said person or persons be remanded to the parish where the offence was committed.

ART. CCCCLXXVII.³ All process in criminal cases issued by any judge, or justice of the peace of the parish of New Orleans, against persons charged with crimes or misdemeanors, conformably to the laws of this state, shall be executed throughout the parish of Jefferson, by the officer charged with the execution thereof, without being endorsed by the judge or a justice of the peace of said parish of Jefferson.

ART. CCCCLXXVIII.⁴ All process in criminal cases, issued by any judge, or justice of the peace of the parish of Jefferson, against persons charged with crimes and misdemeanors, conformably to the laws of this state, shall be executed throughout the parish of Orleans, by the officers charged with the execution thereof, without being endorsed by the judge or a justice of the peace of the said parish of Orleans.

ART. CCCCLXXIX.⁵ The members of the general assembly shall in all cases except treason, felony, breach, or surety⁶ of

² The second section of the act of 13 March, 1818, 1 D. 386, art. CCCCLX, provides, that "it shall not hereafter be necessary for any justice of the peace in this state, to affix his seal to any warrant or commitment, or to any other act or document by him executed as justice of the peace, but his signature to the same certifying that he is [a] justice of the peace, shall be full and entire proof of the authenticity of such act."

³ § 6, act 11 February, 1825, 2 D. 195.

⁴ Act of 7 February, 1827, 2 D. 196.

⁵ Constitution of Louisiana, art. 2, section 20.

⁶ The words "or surety" seem to have got into the english text of the constitution by mistake. The french text, in this respect, expresses the true meaning of the framers of the instrument. It reads—"les membres de l'assem-

the peace, be privileged from arrest, during their attendance at the sessions of their respective houses, and in going to or returning from the same ; and for any speech or debate in either house they shall not be questioned in any other place.

ART. CCCCLXXX.⁷ It shall be lawful for any judge, or justice of the peace, to issue a warrant of search on board of any ship, vessel, or other water-craft, whenever any person shall apply for the same, and shall swear before him that he has strong reasons to believe and suspect that some slave or slaves of his own, or belonging to some person for whom he is acting by virtue of a power of attorney or duly authorized to claim such slave or slaves, as the case may be, is or are concealed on board of such ship, vessel, or other water-craft ; and whensoever a positive oath shall be taken that any slave or slaves be hidden, or concealed in any houses, plantations, and other places, any judge, or justice of the peace shall have the right of issuing said search warrant : provided, that in both the above mentioned cases, the search warrant granted expressly mention the name of the ship, vessel, or other water-craft, or the particular place, house, or building in which the search is to be made.

blée générale seront dans tous les cas, excepté ceux de trahison, crime capitale, et violation de la paix publique, privilégiés, &c. On the other hand, "*crime capitale*" does not convey any thing like a proper idea of the word "*felony*" in the english text.

An act of the 22 April, 1806, 1 D. 647, had provided—

Section 1. That the members of the legislative council, and house of representatives, shall in all cases, except in cases of treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of the said legislature, and in going to and returning from the same ; and for any speech or debate in their respective houses, they shall not be questioned in any other place.

Section 2. Each and every court of this territory shall cause to stop and cease all proceedings in all and every cause, suit, or action before them pending, against any member of the legislative council, or house of representatives, during their attendance at the session of the said legislature, and in going to and returning from the same.

⁷ § 7, act of 13 February, 1816, 1 D. 382.

ART. CCCCLXXXI.⁸ No person accused of any crime shall be forced to answer any interrogatories whatever, touching the offence of which he shall be accused; but every justice of the peace, or other judicial officer, before whom any person charged with the commission of any crime may be brought for examination, previous to commitment, shall take the voluntary declaration of such person so accused, and the answers, which, without menace or promise, he shall freely make to the questions which such officers shall propose, and reduce the same to writing, and cause the same to be subscribed by the declarant in his presence, and shall certify the same under the hand of him, the said justice, or the judicial officer as aforesaid; which declaration, so signed and certified, shall be evidence both to the grand and petty jury, on a presentment, or indictment, and trial for such offence.

ART. CCCCLXXXII.⁹ It shall be the duty of the several justices of the peace, in and for the several [¹⁰parishes] of this [state], and they are hereby vested with full power to hear and examine all complaints of any breach of the peace, or other crime, or misdemeanor, committed in the body of the [¹¹parish] for which such justice shall have been appointed; and if any charge of breach of the peace, crime, or misdemeanor, shall be established by the oath of one or more credible witnesses, then it shall be the duty of such justice of the peace, for any

⁸ § 1, act 23 January, 1805, 1 D. 630. The "commandants" mentioned in this act, as originally passed, are no longer in existence; the office was abolished by § 1, of the act of 3 May, 1805, p. 388. This section of the act of May, 1805, is not inserted in Moreau Lislet's Digest.

⁹ § 2, act 3 May, 1805, 1 D. 630.

¹⁰ The 25th section of the act of 31 March, 1807, p. 42, provides, "that the parish judges, and justices of the peace of his parish, shall have and possess all and singular the same powers, and perform the same duties in and in relation to their respective parishes, as the county judges and justices of the peace now have, and are bound to fulfil in and in relation to their respective counties" by the article in the text.

¹¹ See last note.

offence [¹²except capital offences where the proof is evident or presumption great], to take the bond of the party charged, with such surety as to the said justice may appear reasonable, conditioned for the appearance of the party accused at the next [¹³district court, or if in the first district, at the criminal court of that district], and to transmit the said bond, together with the declarations of the witnesses relative to such charge, to the clerk of the said court, to the end that such offender may be prosecuted according to law; and if the party so charged shall be accused, on oath as aforesaid, of an offence punishable with death [¹⁴where the proof is evident or presumption great], or shall refuse to give such security, it shall be the duty of such magistrate to commit him to the custody of the sheriff of the [¹⁵parish], who shall keep such offender in safe and sure custody, until he shall be delivered by due course of law; and on every such commitment, the magistrate making the same shall give his direction to the said sheriff, in writing, signed with his hand, ordering the said sheriff to keep the said person, so accused, in safe and sure

¹² This act originally read "for any offence not punishable with death, or exclusively cognizable by the superior court." The subsequent provision of the constitution of the state, article 6, § 19, art. CCCCLXXXV, virtually repeals so much of this act as conflicts with the rule fixed by that instrument on the subject of bailable offences.

¹³ This act as originally passed, read, "at the next *county court for the said county*." The county courts were abolished by § 10 of the act of 31 March, 1807, p. 14. By § 15, 16 of the act of 10 February, 1813, 1 D. 294, arts. CCCXLVII-VIII, which invested the district courts with the powers of the superior court, and with criminal jurisdiction over free persons in all cases, and by the acts creating the criminal court of the first district, art. CCCLVIII, *et seq.*, these courts succeeded to the criminal jurisdiction of the former superior and county courts.

¹⁴ The words between brackets are not in the original act. They are introduced by the change in the law of bail, effected by art. 6, § 19, of the constitution of the state. See art. CCCCLXXXV.

¹⁵ This act reads in the original "sheriff of the county." Sheriffs of the county have been superseded by sheriffs of the *parish*, see art. CCCCLXXXI. In the parish of Orleans the sheriff of the criminal court has charge of such prisoners; see act of 18 March, 1840, arts. CCCLXXXVIII-IX.

custody, until delivered by due course of law, and shall substantially set forth the nature of the offence of which such person is accused; which commitment shall be a sufficient warrant and justification to the said sheriff, or his deputy, for the detention and imprisonment of the party so charged.¹⁶

ART. CCCCLXXXIII.¹⁷ It shall be the duty of the parish judge, as well as of the justices of the peace, whenever there shall be brought before him any complaint or denunciation of any crime, or offence, supported by the oath of one or more credible witnesses, to receive the said complaint, and to cause the person accused to be arrested and brought before him, to be examined according to law; and when the person so accused or denounced, shall have been brought before the said judge, it shall be the duty of the said judge to examine him, that is to say, to receive the voluntary declarations of the said person accused and the answers which, without promise or threat, he shall make to the questions which the said judge shall put to him; and the said parish judge shall cause the whole to be reduced to writing, and to be signed by the deponent in his presence, and in that of two witnesses, or if the deponent cannot sign, to mention that circumstance, and to certify the declaration under the signature of him, the said judge, and of two witnesses, which declaration thus certified and signed, shall be evidence before the grand and petty jury, as well on the indictment as on the trial; and after the said examination shall be thus made, it shall be the duty of the said parish judge, to send the accused to jail under the cus-

¹⁶ A *mittimus* is complete, if it show that there was a judgment by a magistrate or a court authorized to give it. *Territory v. Hattick*, 2 *Martin*, 87.

See § 4, act 19 March, 1835, book 1, ch. 7, note 38, for duty of justice before whom party found keeping or playing at any gaming house or bank, or any property seized in such house, is brought. See art. CCCIII for duty of justices in the parishes of St. Bernard, St. Charles, and St. John the Baptist, in regard to examinations, recognizances, &c., in criminal accusations before them; and art. CCCXVI for duty of judge of city court of Lafayette, in similar cases.

¹⁷ § 13, act 31 March, 1807, 1 D. 633.

tody of his constable, if the crime be punishable with death [¹⁸and the proof be evident or presumption great]; or to set him at liberty, if the offence be punishable with less severe pains, upon giving security in such sum as the judge shall be pleased to fix, according to the importance of the offence, for the appearance of the accused at the next [¹⁹district court in the district in which the offence shall have been committed, or, if in the first district, at the criminal court of that district], and if such accused should refuse or be unable to give such security, the judge shall send him to prison, and cause him safely to be holden until the next [²⁰district court, or criminal court as aforesaid] of the district in which the offence shall have been committed, until he be delivered by due course of law. And the said judge shall likewise require of the witnesses important in the cause, bonds of such penal sums as he will think fit to fix, for securing their appearance at the first session of the said [²¹district court, or criminal court as aforesaid] to give evidence; and he shall send the said bonds, with the affidavits received on the accusation, and the examination of the accused, if any there be, to the [²²district court or criminal court as aforesaid], or certified copies of the same.²³

ART. CCCCLXXXIV²⁴ When any person shall commit any offence in one parish and shall fly into another parish, on complaint thereof being made to any justice of the peace of

¹⁸ This act originally read "if the crime be punishable with death or with seven years or more imprisonment at hard labor." The text reads as modified by art. 6, § 19 of the constitution, art. CCCCLXXXV. See note 10, *ante*.

¹⁹ This act as originally passed, read "at the next *circuit* court in the district in which the offence shall have been committed." See note 13, *ante*.

²⁰ In the original act, "*circuit* court." See note 13, *ante*.

²¹ In the original act "*circuit* court" See note 13, *ante*.

²² In the original act "*superior* court." See note 13, *ante*.

²³ For the rest of this section, see b. 2, ch. 2, note 286. See art. CCCIII for duty of judges in the parishes of St. Bernard, St. Charles, and St. John the Baptist in regard to examinations, recognizances, &c., in criminal accusations before them.

²⁴ § 15, act 6 March, 1819, 1 D. 400.

the parish where such offender shall be found, it shall be lawful for such justice, and it is hereby made his duty, to issue his warrant directed to the sheriff, or any other proper officer, to apprehend and bring such offender before such justice for examination; and such offender being arrested and brought before the justice, he, the said justice of the peace, shall proceed to examine him, and the witnesses on behalf of the state, as in other cases; and if, on such examination, such justice shall be of opinion such offender ought to be put on his trial for the alleged offence, he shall issue his warrant directed to the sheriff of his parish, to receive such offender, and him safely keep in his parish jail, until he can be transferred to the parish where the offence is alleged to have been committed; and as soon as may be, he shall cause the said offender to be conveyed, under safe guard, to the jail of that parish where the offence is so alleged to have been committed,²⁶ and the sheriff of such parish shall be authorized to receive and hold the said prisoner in his custody, until he shall be discharged in due course of law; and the said justice shall send also with said prisoner, the declaration, examination, and deposition, as also the other papers relative thereto, to be delivered by the said sheriff to the clerk of the court, in the parish to which the prisoner shall thus be transferred for trial: and the expenses attending the removal of such offender from one parish into another, as aforesaid, shall be allowed by the court to a reasonable amount,²⁷ and shall be paid by the treasurer of this state.

ART. CCCCLXXXV.²⁷ All prisoners shall be bailable by sufficient securities, unless for capital offences where the proof is evident or presumption great.

²⁶ See art. CCCCLXXXV as to right of prisoner to be bailed.

²⁶ See arts. CCCCLXXXIX-XLV for allowance, when made to sheriffs.

²⁷ Art. 6, section 19, Constitution of Louisiana.

Per Cur. "Bail is never allowed in offences punishable by death, when the proof is evident or presumption great. On a coroner's inquest finding a person guilty of a capital crime, the judges have often looked into the testi-

ART. CCCCLXXXVI.²⁸ When any prisoner, or defendant charged with having committed any crime, or misdemeanor, shall swear that some witness then in the district where he is to be tried, is material for his defence, and that he has reason to fear and verily believes that he is about to depart therefrom, it shall be lawful for the justice before whom the complaint was made, or for the court by which the said prisoner or defendant is to be tried, to bind over the said witness or witnesses for their appearance before the court, in the same manner as the witnesses on the part of the prosecution may be bound over.

ART. CCCCLXXXVII.²⁹ It shall be the duty of every justice of the peace, to whom complaint is made of any offence against the laws of this state by any person, to specify the name and surname of the offender, and also of the person who

mony which the coroner is bound to record, and when they have thought the jurors have drawn an illogical conclusion, admitted the party to bail. But as the evidence before the grand jury is not written, and cannot be disclosed, the same discretion and control cannot be exercised, and the judges cannot help considering the finding of the grand jury, as too great a presumption of the defendant's guilt, to bail him. We recollect no case in which it was done. C. J. Marshall who, on the examination of Aaron Burr, had admitted him to bail, concurred in the opinion of the court that he was no longer entitled to that indulgence, after the grand jury found the bill against him." *Territory v. Benoit*, 1 *Mart.* 142.

Per Cur. "When the grand jury find a bill for a capital offence, the party charged lies, from the finding alone, under such a violent suspicion of guilt, that the court will instantly commit him, if present, or direct a *capias* against him. This is the general rule. We will not say it may not have its exceptions; as, if the party charged to have been murdered, were to make his appearance in court." *Territory v. McFarlane*, 1 *Mart.* 216.

When the attorney general is ready for trial, the court will not, except in a very extraordinary case, admit an application for bail. *Ibid.*

Per Cur. "The rule laid down in *Benoit's* case, is a correct one. It will not, however, be rigidly extended to cases in which the defendant has not the benefit of a trial during the term in which the indictment is found, when the continuance is not granted at his solicitation." *Ibid.*

²⁸ § 12, act 6 March, 1819, 1 D. 400.

²⁹ § 13, *ibid.*

may have sustained the injury, in the declaration which shall be made before him of such offence, as far as he shall have knowledge thereof by inquiry made on that subject; and moreover he shall specify therein the day, month, year, and place, when and where the offence complained of was committed.

ART. CCCCLXXXVIII.³⁰ When any person is brought before any justice of the peace, charged with having committed any offence against the laws of this state, it shall be the duty of the said justice to take, in writing, the depositions of all the material witnesses on behalf of the state, and also [to] take the recognizance or bond of all such witnesses, in such sum as may to such justice seem reasonable, conditioned for the appearance of such witnesses before the court having jurisdiction of the offence, there to give evidence in the case, and not to depart without leave of the court; which depositions, and recognizance or bond, shall be forthwith returned to the clerk's office of the court having jurisdiction of the case.

ART. CCCCLXXXIX.³¹ All depositions and examinations of witnesses had before the justices of the peace in criminal cases, as well as the examinations of the parties accused, and transmitted by said justices of the peace to any court where the offence complained of may be cognizable, shall by the clerk of such court be delivered over to the attorney general, or district attorney, for the purpose of preparing the information or indictment, as the case may be;³² and such de-

³⁰ § 14, act 6 March, 1819, 1 D. 400.

³¹ § 3, act 13 March, 1818, 1 D. 387.

³² An act of 9 March, 1827, extending the limits of the jurisdiction of the city court of New Orleans provides, 1 D. 360—

Section 6. In any case of the breach of the peace which is subject to criminal prosecution, and on which the law allows the parties to compromise, it shall not be lawful for the judge or justice of the peace who shall have received

positions and examinations shall not be liable to be called for by the accused, nor any other person whatsoever, the same being intended for the use of the prosecuting attorney only, except when he may not think fit to introduce the written examination of such accused as matter of evidence as the law directs; but the said documents shall be subject to examination in the hands of any officer by any one desiring to examine the same: provided however, that the person [³³accused] shall have a right to demand a copy of the said depositions from the clerk of the court, and it shall be the duty of the clerk on said demand to accord the same.

ART. CCCCXC.³⁴ Vagabonds, suspicious persons, and others described in [articles CLXIV, V, VI, VII, VIII, and CCCCXCI], may be arrested upon a warrant of any justice of the peace of the parish where they shall happen to be.

ART. CCCCXCI.³⁵ It shall be lawful for any two or more justices of the peace, in case any person apprehended upon a general privy search, or by virtue of any special warrant, shall be charged before them with being a vagabond, a suspicious person, or an incorrigible vagabond, or be suspected of some criminal intentions, or of having committed some felony, although no direct proof be then made thereof, to examine such person upon oath, after having duly forewarned

the denunciation of the said offence, not to send to the attorney general the papers relative thereto, in case the complaining party will renounce that the said offence be prosecuted, unless the party so offending pay to the said judge or justice of the peace, and to the benefit of the parish of Orleans, the costs attending the said complaint; all which costs, thus recovered, shall be paid over by the judge or justice who shall receive the same, into the hands of the parish treasurer.

This section is confined in its operation to the city of New Orleans.

³³ The word "accused" between brackets, is substituted for "accusing," a clerical error in the original act. The french text reads, "l'accusé."

³⁴ § 4, act 7 June, 1806, 2 D. 509.

³⁵ § 5, *ibid*.

him of the consequences of his giving a false account of himself, not only as to his nation, and country where he was born, the parish or place where he was last legally settled, but also as to his means of livelihood; the substance of which examination shall be put into writing, and be subscribed by the person so examined, or, if he cannot sign, mention [shall] be made of that circumstance; and the said examination shall likewise be signed by the justices, or one of them, and by them transmitted to the clerk of the [³⁶district court, or if in the first district, to the clerk of the criminal court of that district], at the end of the writings, to be there filed and kept on record; and if such person shall not make it appear to such justices that he has a lawful way of getting his livelihood, or shall not procure some responsible house-keeper to appear to his character, and to give security for his appearance before such justices, or before the said³⁷ court, at some day to be fixed by the said justices, it shall be lawful for the said justices to commit such person to some prison or house of correction, for any time not exceeding fifteen days; and in the meantime the said justices shall order that an advertisement be inserted, at the expense of the [state], in two of the public papers of the city of New Orleans if the vagabond is arrested in the county of Orleans, in the english and french languages, mentioning the name, surname, age, native place, residence, and description of such suspicious individual arrested and imprisoned, the motives of his arrest, the articles which may have been found upon him, and which he shall be suspected not to have come honestly by, the place to which he is committed, and the time and place when and where such person is to be brought again to be examined before the said justices, or before the [³⁸said] court; but if said vagabond is not arrested in the county of Orleans, the said advertisement, as aforesaid, shall be posted up at the church door, or at any other convenient public place.

³⁶ In the original act "*county or superior court.*" See note 13, *ante*.

³⁷ In the original act "*said county court.*" See note 13, *ante*.

³⁸ In the original act "*county court.*" See note 13, *ante*.

ART. CCCCXCII.³⁹ At the expiration of the term granted by the said justices, the individuals arrested and committed ~~as~~ expressed in the foregoing [article], shall be conducted again before them, or before the [⁴⁰district court of the place of such commitment, or if in the first district before the criminal court of that district], and if no charge of crime or offence is brought against them, they shall be discharged and set at liberty; but if they are found to be in any of the cases mentioned in [articles CLXV and CLXVI], they shall be condemned to the punishment therein expressed, according to the circumstances, and at the discretion of the said justices, or of the [⁴¹said] court; in which court the prosecution shall be made on a simple information, filed by the person acting in the capacity of public prosecutor in such [⁴²district].

ART. CCCCXCIII.⁴³ If the vagrant, or suspicious person thus convicted, be found to have effects sufficient to pay all, or part of the expense of his arrest, the said justices of the peace or judge of the [⁴⁴district court, or criminal court of the first district], may order the same to be sold and employed for that purpose up to that amount; the balance to be returned to the offender.

ART. CCCCXCIV.⁴⁵ The governor may, in his discretion, deliver over to justice any person found within the state, who shall be charged with having committed, without the jurisdiction of the United States, the crimes of wilful murder, arson, robbery, forgery, counterfeiting, or rape.

³⁹ § 6, act 7 June, 1806, 2 D. 510.

⁴⁰ In the original act "*county* court of the place of such commitment." See note 13, *ante*.

⁴¹ In the original act "*county* court." See note 13, *ante*.

⁴² In the original act "*county*." See note 13, *ante*.

⁴³ § 7, act of 7 June, 180, 62 D. 511.

⁴⁴ In the original act "*judge of the county*." See note 13, *ante*.

⁴⁵ § 1, act 15 March, 1830, p. 66.

ART. CCCCXCV.⁴⁶ Such delivery shall only be made on the requisition of the duly authorized ministers, or officers of the government, within the jurisdiction of which the crime shall be charged to have been committed.

ART. CCCCXCVI.⁴⁷ It shall be the duty of the governor to require such evidence of the guilt of the person so charged, as would be necessary to justify his apprehension, and commitment for trial, had the crime charged been committed within this state.

ART. CCCCXCVII.⁴⁸ The expenses of apprehending and delivering such person, shall be defrayed by those to whom he shall be delivered.

⁴⁶ § 2, act 15 March, 1830, p. 66.

⁴⁷ § 3, *ibid.*

⁴⁸ § 4, *ibid.*

CHAPTER V.

OF THE SEVERAL MODES OF PROSECUTION.

CCCCXCVIII. *Attorney general and district attorneys, when to prosecute*—CCCCXCIX. *duty of, where crime or misdemeanor committed, and no complaint made. D. Masters may prosecute for satisfaction for outrages and abuses of their slaves. DI—V. Grand and petty juries in district courts out of the first district, how drawn. DVI. Indictments to be according to common law. DVII. In presentments or indictments for perjury, what sufficient—DVIII. or for subornation of perjury. DIX. Limitations of prosecutions for offences other than murder, arson, robbery, forgery, or counterfeiting, or for fines and forfeitures—DX. of prosecutions against sheriffs or their securities.*

ART. CCCCXCVIII.¹ The attorney general, and the several prosecuting attorneys of this state, shall be bound to prosecute or sue in all cases where the state shall be a party.

ART. CCCCXCIX.² Whenever the attorney general and the district attorneys shall be informed, that a crime or misdemeanor has been actually committed, and that no complaint, or declaration thereof, was made before any judge or justice of the peace of their respective districts, it shall be the duty of the said attorney general and district attorneys respectively, to

¹ § 3, act 22 February, 1817, 1 D. 27.

² § 8, act 22 February, 1817, 1 D. 386.

inquire, *ex officio*, into the fact, by causing all the persons they shall suppose to have some knowledge of the fact, to be summoned before some judge or justice of the peace, that their depositions may be taken.

ART. D.³ Masters may prosecute in criminal cases, to obtain satisfaction of the outrages and abuses which might have been committed against their slaves.

ART. DI.⁴ In every year, each of the parish judges of this state, except those within the first judicial district,⁵ jointly with not less than two freeholders of his parish, shall form, agreeably to their particular knowledge, a list of the inhabitants of their respective parishes, that in their judgment they may consider capable of fulfilling the duties of jurors in the district courts; provided, that the number of the inhabitants inscribed on said list shall not exceed two hundred, and consist of at least one hundred, if so many competent jurors are found in said parish; which list duly signed and certified by said parish judge and freeholders, shall, by the parish judge, be transmitted to the clerks of the district court, of their respective parishes: and provided also that the parish judge and freeholders shall, as far as possible, avoid placing on the list the names of those individuals who have served as jurors according to the previous jury list.

ART. DII.⁶ It shall be the duty of the clerks of the said district courts, to write on ballots the names of the persons composing said lists, and put the said ballots in a box shut with two locks, one of the keys of which shall be kept by the clerk of the district court, and the other by the parish judge.

³ Part of § 16, part 1, act of 7 June, 1806, 1 D. 103.

⁴ § 1, act 6 March, 1840, p. 27.

⁵ For the laws regulating the formation of grand and petty juries in the criminal court of the first district, see chapter 2 of this book, arts. CCCLXXI-XXX, and CCCCIV, V.

⁶ § 2, act 6 March, 1840, p. 27.

ART. DIII.⁷ At least twenty days before each session of the district court, the clerk of the said court, in the presence of the parish judge and two freeholders of the parish, shall draw from said box not less than forty-eight ballots,⁸ and the said clerk shall deliver to the sheriff of the parish a certified list of the names of the persons so drawn; and it shall be the duty of said sheriff to summon said persons to serve as grand and petty jurors, at the ensuing term of said district court; provided, that in case of absence, death, or sickness of the parish judge, the duties required of him by [this article and articles DI, DII, and DIV], may be performed by any duly commissioned justice of the peace of the parish.

ART. DIV.⁹ In any case when a jury selected under the provisions of [the three last articles], shall be set aside by the court, on account of any defect or informality whatsoever, it shall be the duty of the district judge to give immediately notice thereof to the parish judge, or in case of his death, sickness, or absence, to some justice of the peace of the parish, whose duty it shall be to draw a new set of jurors *instanter*, under the provisions and formalities required by the [said articles]; which said jurors shall be summoned to appear *instanter*, and serve as jurors, the twenty days required by [the last article] being in such case waived. And the said court shall not be adjourned, except from day to day, till such jury can be convened; provided, that such sessions be not con-

⁷ § 3, act 6 March, 1840, p. 27.

⁸ The 4th section of the act of 25th March, 1831, p. 112, provided, that "it shall not be deemed a good cause to challenge the array, that the number of jurors actually drawn at any time, was not the exact number required by law."

There may be some difficulty in determining the effect of this provision—whether limited by the preceding section of the act of 1831 to "jurors drawn to serve in any court of the first district;" or whether, if originally intended to apply throughout the state, it be not repealed by the express provision of the subsequent act of 1840, in the text, declaring that "*the judge, &c. shall draw from the said box not less than forty-eight ballots.*"

⁹ § 4, act 6 March, 1840, p. 28.

tinued so as to interfere with any regular session of said court in another parish.

DV.¹⁰ All or any objections which might or could be made, on account of any defect or informality which may have occurred, either in the formation, drawing, or summoning of said juries, under the provisions of [the four last articles], or any other defect whatsoever in the construction of said juries, shall be made on the first day of the terms of the said district courts, and not afterwards.

ART. DVI.¹¹ The forms of indictment, divested however of unnecessary prolixity, changing what ought to be changed, shall be, except as is otherwise provided for [by law], according to the common law [of England].¹²

¹⁰ § 5, act 6 March, 1840, p. 28.

¹¹ Part of § 33, act 4 May, 1805, 1 D. 369.

¹² The rest of this section relates to the definition of crimes, or the mode of trial, rules of evidence, &c., and forms arts. I, and DXIV.

Under the 33d section of the act of 1805, the court will not consider as unnecessary any circumstance which had previously been held *essential* to the sufficiency of the indictment. *Territory v. Nugent*, 1 Mar. 108, 169.

In an indictment for a libel, where the district is mentioned in the margin, and the offence is stated to have been committed in the city of New Orleans, without adding the words *in the district aforesaid*, and the district is not referred to in any other manner, it will be insufficient, notwithstanding the 33d section of the act of 1805, chapter 20, and judgment will be arrested. *Ibid*, 1 Mar. 169.

Judgment will not be arrested because the caption does not contain the day, and term, on which the indictment was found.

"The caption of the indictment is no part of the indictment itself; but it is the style or preamble in the return that is made from an inferior to a superior court, from whence a certiorari issues to remove, or when the whole record is made up in form. Whereas the record of the indictment, as it stands upon the file in the court wherein it is taken, is only thus: *Juratores pro domino rege*, &c. When it comes to be returned upon a certiorari, it is more full and explicit. *Norff. ad generalem sessionem* &c. 2 Hale's P. C. 65." *Territory v. McFarlane*, 1 Mar. 221.

Judgment will not be arrested, on an indictment for murder, on account of the omission of the words *vi et armis*, where the indictment describes the weapon with which the mortal wound was given. "*The manner of the force*

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ART. DVII.¹³ In every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom, the oath or affirmation was taken, averring such court, person, or persons, to have competent authority to administer the same, together with a proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding other than as aforesaid, and without setting forth the commission or authority of the court, or the commission or authority of the person or persons before whom the perjury was committed.

ART. DVIII.¹⁴ In any presentment or indictment for subornation of perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, or declaration, or any part of the record, or proceeding, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

ART. DIX.¹⁵ No person shall be prosecuted, tried, or pun-

and arms being particularly declared, it was not necessary that the *force and arms* should be generally expressed. *Vi et armis* implied in murder. 1 *East* 346. *Ibid*.

Indictment set forth that prisoner and one B., on the 6th of April, assaulted deceased, that B. gave the mortal blow, that deceased languished till the 10th when he died, that the prisoner was *then* and *there* abetting B., and concluded that prisoner and B. murdered deceased. *Per Cur.* "The words *then* and *there*, are not confined by any subsequent expression to either of the antecedent periods, so as to prevent their being extended to both, and thus avoid the repugnancy." Judgment refused to be arrested. *Ibid*.

¹³ § 17, act 4 May, 1805, 1 D. 365.

¹⁴ § 18, *ibid*, 366.

¹⁵ § 37, *ibid*, 371.

ished for any offence, wilful murder, arson, robbery, forgery, and counterfeiting excepted, unless the indictment or presentment for the same be found or exhibited within one year next after the offence shall be done or committed; nor shall any person be prosecuted for any fine or forfeiture, under any law of this [state], unless the prosecution for the same shall be instituted within six months from the time of incurring such fine or forfeiture: provided, that nothing herein contained shall extend to any person absconding or fleeing from justice.¹⁶

ART. DX.¹⁷ No sheriff, or his security or securities, shall be able to prescribe against his acts of misfeasance, non-feasance, costs, offences, and quasi-offences, but after the lapse of two years from the day of the commission of acts complained of.

¹⁶ See section 14, act 31 January, 1829, p. 48, book 1, chapter 7, note 101, *ante*.

¹⁷ Act 28 February, 1837, p. 34.

CHAPTER VI.

OF ARRAIGNMENT.

DXI. *Standing mute when arraigned.*

ART. DXI.¹ If any person, on his or her arraignment for any offence, shall stand mute, or will not answer to the indictment, the plea of not guilty shall be entered for him, or her, on the record; and the court shall proceed to trial of the person so standing mute, as if he, or she had pleaded not guilty and for trial put him or herself upon the [country²], and render judgment accordingly.

¹ Part of § 36, act 4 May, 1805, 1 D. 370.

² The word "county" is used in the original act, by mistake. The same error has crept into the french text, which reads—"avait réclamé d'être jugée d'après les lois du comté."

CHAPTER VII.

TRIAL AND CONVICTION.

DXII. *Rights of accused in criminal prosecutions—DXIII. of free negroes, mulattoes, or mustees to trial by jury.* **DXIV.** *Mode of trial, rules of evidence, and other proceedings in the prosecution of certain offences, to be according to common law.* **DXV.** *Accused, when to have copy of indictment and list of jury.* **DXVI.** *Qualifications of jurors—DXVII—VIII. who exempt from serving as such.* **DXIX—XX.** *Challenges for cause.* **DXXI.** *Peremptory challenges by accused—DXXII. by the state.* **DXXIII.** *Writs of venire facias, how issued and served, and jurors de talibus how returned.* **DXXIV—V.** *Compensation of jurors.* **DXXVI.** *Right of accused to defence by counsel, and to have counsel assigned—such counsel to have access to prisoner.* **DXXVII.** *Number of counsel who may argue on same side.* **DXXVIII.** *Slaves not to be witnesses for or against whites—DXXIX. nor against free persons of color, except when charged with raising, or attempting to raise, or aiding in any insurrection of slaves.* **DXXX.** *When courts may compel attendance of witnesses—DXXXI. when to appear, and how long to attend—DXXXII. their compensation.* **DXXXIII.** *Estate of accused bound for costs, from time of commission of offence—DXXXIV. when acquitted not to pay costs*

ART. DXII.¹ In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor,² and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage,³ nor shall he be compelled to give evidence against himself.

ART. DXIII.⁴ Free negroes, mulattoes, or mustees, shall have a right to a trial by jury before the ordinary tribunal.

ART. DXIV.⁵ The method of trial, the rules of evidence,⁶

¹ § 18, art. 6, Constitution of Louisiana.

² Though the affidavit be sufficiently strong, yet where circumstances induce a suspicion that it was made with a view to obtain delay to work on the public mind, and where the defendant refuses to state what he intends to prove by the absent witness, a continuance will be refused. *Territory v. Nugent*, 1 Mar. 108.

³ The 34th section of the act of 4 May, 1805, 1 D. 370, and so much of the 35th section of the same act as relates to the admission and attendance of witnesses on behalf of the accused, is virtually embraced in the subsequent provisions of the constitution, in the text.

The 3d section of art. 2 of the Constitution of the United States, requiring the trial of all crimes to be by jury, and the 6th art. of the amendments thereto, requiring the intervention of a grand jury, relate only to the exercise of the judicial powers of the United States. *Territory v. Hattick*, 2 Mar. 87.

⁴ Part of § 6, part 2, act of 7 June, 1806, 1 D. 115.

⁵ Part of § 33, act 4 May, 1805, 1 D. 370.

⁶ The inadmissibility of a witness on account of interest, according to the common law, is confined to cases in which the verdict may be given in evidence in a suit brought for or against him. In other cases the objection is said to go to his credibility only. In indictments for forgery a different rule prevails, founded on decisions made since the statute of 5th Elizabeth, on which most indictments for forgery are framed. The apparent indorser of a note, whose signature was charged to be forged, will be admitted on an indictment on the part of the state, to prove the forgery. So in Pennsylvania and Massachusetts, where no statute, changing the common law, authorized the rejection of such a witness. *Territory v. Barran*, 1 Mar. 208.

A man cannot fabricate evidence for himself. *Ibid.*

The declaration of a witness must be taken *in toto*. *Per Cur.* "When, in

and all other proceedings whatsoever in the prosecution of the said crimes, offences, and misdemeanors,⁷ changing what ought to be changed, shall be, except as is otherwise provided for, according to the common law of [England].⁸

the trial of a cause, a fact comes incidentally and collaterally to be proved, we are not ready to say the rules of evidence are as strictly to be insisted on, as when the facts put at issue are to be made out. In the latter case the party has previous notice, and time to procure the best testimony, which consequently will be required. Not so in the former case, as on a motion for a new trial, or for a continuance, when a witness is examined on his *voir dire*, &c." *State v Cecil*, 2 Mar. 208.

The examination of a prisoner taken before the mayor, and subscribed, and sworn to by the accused, cannot be received as evidence on the trial. The act of 1805, chapter 8, section 1, [art. CCCCLXXXI], requires the magistrate to take the voluntary declaration of the accused. *State v. Pierce*, 2 Mar. 253.

Viva voce evidence of what the prisoner had said when before the magistrate previous to commitment, will not be admitted, when it does not appear whether the magistrate had committed the declarations of the prisoner to writing. Nor would it probably be admitted in this state, though it were proved that the magistrate had not reduced the declarations to writing. *Per Cur.* "The superior court of North Carolina, Martin's notes, 43, refused to receive the testimony of the committing magistrate, who had neglected to reduce to writing the declaration of the prisoner before him; neither would they consent that he should write it down in court. In this state the case differs very much from a similar one in England. Our statute, 1805, ch. 8, [art. CCCCLXXXI], requires the magistrate to take the declarations of the prisoner in writing, and cause them to be subscribed by the declarant, in his presence. It does not put so much confidence in the magistrate, as to allow him to state the prisoner's declarations in such a manner, as to render the statement legal and authentic, without the prisoner's concurrence. His signature is essentially requisite; without it, the examination must be rejected." *State v. Rodriguez*, 2 Mar. 253.

⁷ See book 1, ch. 1, note 2, for an enumeration of the "crimes, offences, and misdemeanors," to which this article refers.

⁸ See arts. I, and DVI, for the other parts of this section not inserted here. See book 1, ch. 4, note 39, for the method of trial of any counsellor or attorney accused of fraudulent practice, or of betraying client's interest; book 1, ch. 6, notes 6, 8, for that of insolvent debtor charged with fraud; and book 1, ch. 7, note 121, for that of proprietor or manager of any slave refusing or neglecting to provide such slave with "clothes, house, and sufficient nourishment."

ART. DXV.⁹ Every person who shall be accused and indicted for any capital crime, or any crime punishable with imprisonment at hard labor for life, or for seven years or upwards, shall have a copy of the indictment, and list of the jury which are to pass on his trial, delivered unto him at least two entire days before he or she shall be tried for the same.¹⁰ *Whitely C. C. v. State, 1847, 1 D. 635.*

ART. DXVI.¹¹ The qualifications of a juror to serve in any of the courts of this state, shall be the following :

First. To be a free white male citizen of the state of Louisiana.

Second. To be of full age and sound mind.

Third. Not to be an apprentice, or an indented or a domestic servant.

Fourth. Not to have been adjudged guilty of any crime punishable, according to the laws of this state, with death, or imprisonment at hard labor.

Fifth. To have resided at least twelve months before a new venire is formed, in the parish or district in which the jury is summoned.¹²

Sixth. To have paid, or be liable to pay, a state, parish, or city tax. *For C. C. v. State, 1847, 1 D. 635.*

ART. DXVII.¹³ The following persons shall be exempt from serving as jurors :

First. The members of the legislature, together with their officers and clerks, during the time of the sessions.

⁹ Part of § 35, act 4 May, 1805, 1 D. 370.

¹⁰ See part of this section, art. DXXVI; and see note 3, *ante*.

¹¹ § 1, act 25 March, 1831, p. 112.

¹² An act of 27 March, 1840, p. 113, concerning the parish of Union, provides—

Section 3. That all householders and freeholders in said parish, who shall have resided in it six months, shall be deemed legal jurors.

¹³ § 3, act 27 February, 1826, 1 D. 625.

+ That if he goes to trial without objection it is a waiver of the service. 4th 379 State v. Norman leg. — Chas. C. v. State, 1847, 1 D. 635. And when taken into consideration the fact that the jury is to be drawn from the panel of twelve men, it is clear that the jury is to be drawn from the panel of twelve men. 7th C. C. v. State, 1847, 1 D. 635.

Second. The governor, the secretary of state, and all the public officers commissioned under the authority of the United States.

Third. The mayors, and recorders, of the divers incorporated cities.

Fourth. The judges, the officers of the several courts of this state, the attorneys and counsellors at law, the notaries, the ministers of the gospel,¹⁴ and treasurers of the divers incorporated administrations or institutions.

Fifth. The clerks of the several incorporate banks or institutions.

Sixth. All persons more than sixty years old, or those that may be infirm or valetudinary.

Seventh. Physicians and apothecaries.

Eighth. The inspectors of beef and pork, flour, tobacco, and other merchandize in the city of New Orleans.¹⁵

ART. DXVIII.¹⁶ All persons serving as consular agents for foreign nations, shall be hereafter exempt from serving on juries, except on special juries.

ART. DXIX.¹⁷ In all criminal causes in which the state, the parishes, or the politic or religious incorporations, except the banks, and other moneyed institutions, are interested, it shall not be a sufficient cause to challenge¹⁸ the sheriff, or other exe-

¹⁴ The act of 1 March, 1820, 2 D. 57, had exempted "all clergymen, priests, and regular ordained ministers of the gospel."

¹⁵ Members of fire companies have been exempted from serving on juries, by special provisions. See act of 2 April, 1835, p. 232, &c.; and act of 4 March, 1837, b 2, c. 2, note 162, *ante*, exempting those who have served six years in any incorporated fire company in the parish of Orleans. See also b. 2, c. 2, note 162, for other persons exempt from serving on juries in that parish.

Per Cur. "It is every days practice to discharge, on his application, a juror who is superannuated, who lacks any of the requisite qualifications, or who has not been regularly summoned." *Auzan's case*, 2 Mar. 125.

¹⁶ § 17, act 2 April, 1835, p. 233.

¹⁷ Part of act 9 January, 1825, 2 D. 295.

¹⁸ This act as it originally passed, reads: "In all civil and criminal cases,"

cutive officer, or any of the jurors who are called to serve in the cause, to allege that they are citizens or inhabitants of the state, or of the said parishes, or members of the said politic or religious incorporations, or that they pay any state, parish, or city tax.

ART. DXX.¹⁹ No juror shall be challenged, by either party, on the ground that he is exempted by law from serving on juries; nor on the ground that he is related or allied to either party, unless such relationship or alliance be within the sixth degree, according to the computation of the civil law.

ART. DXXI.²⁰ In all criminal prosecutions in this state, the right of peremptory challenge to the number of twelve of the jury, shall be allowed to every person put upon his trial for any crime, where the punishment [may be imprisonment at hard labor for a term of twelve months, or more²¹], as well as in cases punishable by death.

&c., "it shall not be a sufficient cause to challenge the judge, or justice of the peace, who have cognizance of the case, nor the sheriff," &c. The part not inserted in the text has no application to criminal cases.

¹⁹ § 5, act 25 March, 1831. p. 112.

²⁰ Part of § 4, act 17 February, 1821, 1 D. 336.

²¹ By an act of 27 March, 1835, entitled "an act to determine the cases in which the defendant in criminal prosecutions shall be entitled to peremptory challenges, as printed by authority of the state, it is provided, p. 154—

Section 1. That in all criminal prosecutions in this state for any crime or crimes, the punishment whereof may be imprisonment or hard labor for a term of twelve months, or more, the defendant, or defendants shall be entitled to challenge peremptorily, and without showing cause, any number of jurors not exceeding twelve.

The word *or* in the phrase "imprisonment or hard labor" is a misprint for *at*, the act in the office of the secretary of state reading "imprisonment at hard labor." The original MSS. not having been examined, this typographical error was corrected by an act of 7 March, 1837, amending the act of 1835, which provided, p. 49—

Section 1. That the first section of the act to which this is an amendment, be so amended, as to read as follows, to wit: That in all criminal prosecutions in this state for any crime or crimes, the punishment whereof may be imprisonment at hard labor for a term of twelve months or more, the defendant or

ART. DXXII.²² In all criminal prosecutions wherein the defendant is allowed peremptory challenges, the state shall also be allowed to challenge, without cause, any number not exceeding six : provided, that the state shall no longer exercise the right of causing jurors to stand aside until the pannel shall be exhausted.

ART. DXXIII.²³ The writs of *venire facias* when directed by the court, shall issue from the clerk's office, and shall be served and returned by the sheriff in his proper person, or by his deputy ; or in case the sheriff or his deputy is not an indifferent person, or is interested in the event of the cause, by the coroner ; and in case the coroner is not an indifferent person, or is interested in the event of the case, by such fit person as the court shall especially appoint for that purpose, to whom they shall administer an oath or affirmation that he will truly or impartially serve and return such writ ; and when, from challenges or otherwise, there shall not be a jury to determine any criminal cause, the sheriff, or his deputy shall, by order of the court, when such defect of jurors shall happen, return judgment *de talibus circumstantibus* sufficient to complete the pannel.

defendants in such prosecution or prosecutions shall be entitled to challenge peremptorily, and without showing any cause, any number of jurors not exceeding twelve, and this whether such imprisonment shall be peremptory, or within the discretion of the court.

The obvious construction to be put upon these acts, taken with the text, is, not to consider them in the comprehensive language of the title to the act of 1835 as "*determining the cases*" in which peremptory challenges are to be allowed, and repealing *in toto* the act in the text, which would take away the right of peremptory challenges in capital cases, but as repealing the act of 1821, in the text, so far only as it allowed the privilege of peremptory challenge in offences punishable with imprisonment at hard labor for a term less than twelve months.

See art. CCCLXXIX for the rest of the section of the act of 1821, not inserted in the text.

²² § 2, act 7 March, 1837, p. 49.

²³ § 8, act 26 March, 1813, 1 D. 300.

ART. DXXIV.²⁴ Any person regularly drawn and summoned to serve as a grand, or petit juror, or summoned to serve as juror *de talibus*²⁵ at the several district courts in this state, shall be allowed the sum of one dollar and fifty cents for each day he shall attend such court, and the sum of six and one quarter cents for every mile he shall necessarily travel in going to said court and returning home, to be paid as provided for [by law²⁶]: provided, that mileage shall in no case be allowed

²⁴ § 1, act 24 March, 1823, 1 D. 626.

²⁵ This section is so misprinted in Moreau Lisle's Digest, as to make it appear that grand jurors, and *petit jurors summoned de talibus circumstantibus*, were alone entitled to compensation, petit jurors summoned in the ordinary way being excluded. It is corrected in the text, from the original act.

²⁶ This act reads—"to be paid as hereinafter provided for." Section 2 of this act forms art. DXXV, in the text. Other sections provide—

Section 3. All persons who shall institute a suit or suits in the said district courts, shall pay a tax of ten dollars on each and every suit, and all persons who shall institute a suit or suits in the parish courts above the sum of one hundred dollars, shall pay on each and every suit the sum of five dollars, to be collected by the sheriff or collector of taxes, in the same manner as is provided by law for the collection of the state and parish tax, and [he] shall pay the same into the parish treasury, at the same time and under the same provisions, as directed for the payment of the parish tax.

Section 4. The clerks of the district courts of the several parishes shall deliver to the sheriff or collector, in the month of January in each year, a certified list, under the seal of the court, containing the names of the persons who shall have instituted a suit, or suits, liable to taxation, together with the number of suits instituted by each, which shall be sufficient authority for the sheriff or collector to demand and receive the said tax, either from the persons instituting a suit, or their securities for costs; and the said clerks shall transmit a duplicate of said list to the president of the police jury, who shall cause the same to be entered on the parochial records.

Section 5. Any clerk, sheriff, or collector, who shall refuse, or neglect to do and perform the duties imposed by this act, shall forfeit and pay, for each and every offence, the sum of one hundred dollars; and moreover be liable for all sums of money they shall receive, to be recovered on motion of the district attorney, before any court of competent jurisdiction; and such forfeit and sums of money shall be paid into the parish treasury.

Section 6. When judgment shall be rendered for the plaintiff, by the said district or parish court, above the sum of one hundred dollars, the judge shall order the amount of tax imposed on such suit, to be taxed in the bill of costs, to the use of the plaintiff.

to a juror, for more than once going to and returning from the court during the same term.²⁷

Section 7. All sums of money which shall be paid into the parish treasury by the provisions of this act, shall constitute and form a fund, to be denominated the jury fund, the accounts of which shall be kept separate and distinct from the general accounts of the parish : provided however, that when it shall be found to be more than sufficient for the compensations [compensation des jurés—french text] appropriations for other purposes may be made from it.

Section 10. Nothing in this act shall be so construed as to apply to the first judicial district, or to the courts which exist therein, or to the courts sitting in the parishes of St. James and St. Landry.

So much of this section as relates to the two last parishes, was repealed, by § 3, act 25 March, 1831, p. 94, which provided that the jurors of said parishes should be paid in conformity with the provisions of the law of 1823. The act of 1831, further enacted—

Section 4. That it shall be the duty of the clerks of courts, to require from all persons liable to pay the tax imposed by the third section of the act mentioned in the preceding section of this act, previously to the instituting any of the suits mentioned in the said third section, to give good and sufficient security, residing in the parish in which said suit or suits are to be instituted, for the payment of said tax.

By the act of 21 January, 1825, 1 D. 629, so much of the act of 24 March, 1823, as related to the compensation of jurors, was repealed as to the parishes of Lafourche Interior, Assumption, Washington, and St. Tammany, and the proceeds of the taxes on suits in those parishes were directed to be paid into the parish treasuries, for the use of those parishes respectively—as to the parishes of Avoyelles, Lafayette, and Terrebonne, with the same direction as to the proceeds of the taxes, by act of 27 February, 1826, 1 D. 629—as to the parish of St. Helena, with the same direction as to the proceeds of taxes, by act of 16 February, 1827, 1 D. 629. So much of the act of 1823 as related to the tax on suits, was repealed as to the parishes of St. Mary, St. Martin, Lafayette, and St. Landry, and the tax abolished therein, by the act of 4 March, 1830, p. 38—as to the parishes of Iberville, Claiborne, Pointe Coupée, Avoyelles, and St. Mary, by act of 25 March, 1831, p. 94. By § 2 of the act of 27 January, 1832, p. 10, it is enacted that the jurors of the parish of St. Helena, shall receive compensation as provided by the act of 24 March, 1823. The act of 1823 was repealed as to the parish of Livingston, by § 2, act of 12 March, 1835, p. 58.

By an act of 2 April, 1835, fixing the compensation of jurors in the parishes of Terrebonne, Lafourche Interior, Assumption, Lafayette, and St. Martin, it is provided, p. 241—

Section 3. That all such sums as may be paid into the parish treasuries of said parishes, by virtue of the laws imposing taxes on suits instituted in the district and parish courts, shall form and constitute a fund to be denominated

ART. DXXV.²⁶ It shall be the duty of the clerks of said courts, immediately after the jurors shall have been discharged,

a jury fund, the accounts of which shall be kept separate and distinct from the general accounts of the parishes; provided however, that whenever said fund shall be more than sufficient to compensate the jurors, as aforesaid, appropriations for other purposes may be made from it; and provided also, that when said fund shall be found insufficient, the treasurers of said parishes shall satisfy said compensations, by any moneys not otherwise appropriated.

By an act of 17 February, 1837, p. 15, it is provided that the jurors in the parish of Claiborne, shall receive compensation agreeably to the act of 24 March, 1823; by an act of 12 February, 1838, p. 22, that the jurors in the parish of Pointe Coupée shall be compensated according to the same law. By § 2, of an act of 27 March, 1840, p. 115, the "jury tax fee on suits in the parish court of the parish of East Feliciana" was abolished, and that on suits in the district court of that parish reduced to five dollars. By an act of 8 March, 1841, p. 79, all other acts on the subject are repealed, and the act of 24 March, 1823, is revived, with certain amendments, as to the parish of Avoyelles.

An act of 8 March, 1841, p. 86, provides—

Section 1. That the third, fourth, fifth, sixth, and seventh sections of an act, entitled "an act allowing compensation to jurors and for other purposes," approved March twenty-fourth, eighteen hundred and twenty-three, be, and the same are hereby repealed, so far as the same concerns the parishes of Rapides, and St. Landry, Nachitoches, and Caddo.

Section 2. That in all suits instituted or to be instituted in the district court in and for the parishes of Rapides and St. Landry, Nachitoches, and Caddo, whenever any of the parties to said suit or suits shall require or pray for a jury to try his or their cause or causes, and said jury shall be allowed, then, and in that case only, shall a tax fee be imposed.

Section 3. That it shall be the duty of the treasurer of said parishes, to keep a separate account of such sums as he shall so receive from the clerk as aforesaid, to be denominated the jury tax fund account; and all warrants upon the parish treasury for services rendered as jurors, shall be paid out of said fund.

Section 4. That it shall be, and is hereby made the duty of the police jury of said parishes, to provide for the payment of such warrants, should the jury tax fund, as contemplated by this act, be insufficient for said purpose.

Another act of 8 March, 1841, p. 106, increasing the compensation of jurors in the ninth judicial district, embracing the parishes of Carroll, Concordia, and Madison, provides, § 2, that "they shall be paid out of any moneys in the treasuries of the respective parishes in which they may serve, not otherwise appropriated, in the manner provided for by existing laws."

²⁷ By the 10th section of this act, it was provided that it should not apply to the first judicial district, nor to the parishes of St. James and St. Landry; and so much of this act as relates to the compensation of jurors, has been extended to, or repealed in different parishes, by subsequent acts. It was repealed as to

to make out and deliver to each juror, a certificate, specifying the number of days that he has attended, the distance for

the parishes of Lafourche Interior, Assumption, Washington, and St. Tammany, by § 1, act of 21 January, 1825, 1 D. 629—as to the parishes of Avoyelles, Lafayette, and Terrebonne, by § 1, act of 27 February, 1826, 1 D. 629—as to Iberville, Claiborne, and Pointe Coupée, by § 1, act of 25 March, 1831, p. 94; extended to the parishes of St. James, and St. Landry, by § 3 of last mentioned act, and to the parishes of Washington, St. Tammany, Iberville, and St. Helena, by § 1 and 2 of act of 27 January, 1832, p. 10; repealed as to the parish of Livingston by § 2, act of 12 March, 1835, p. 58—as to the parishes of Terrebonne, Lafourche Interior, Assumption, Lafayette, and St. Martin, by § 1 of the act of 2 April, 1835, p. 240, reducing the compensation in those parishes; and extended to the parish of Claiborne by act of 17 February, 1837, p. 15. The compensation of jurors was afterwards increased in the parishes of St. Landry, Avoyelles, Natchitoches, and Claiborne, by § 1 and 2 of act of 13 March, 1837, p. 88; the act of 1823 was extended to the parish of Pointe Coupée by act of 12 February, 1838, p. 22; the compensation of jurors in the parish of East Feliciana was increased by § 1, act of 27 March, 1840, p. 115—in the parish of Avoyelles, by § 2, act of 8 March, 1841, p. 79—and in the parishes of Carroll, Concordia, and Madison, by § 1, of act of 8 March, 1841, p. 106.

The section of the act of 1823, in the text, is in force throughout the state, except so far as it is repealed by the provisions of the subjoined acts, which, it is believed, are all the laws now in force modifying that section.

Section 10. Nothing in this act shall be so construed as to apply to the first judicial district, or to the courts which exist therein.

Act 24 March, 1823, 1 D. 628.

Section 2. That the law granting compensation to jurors, so far as it effects the parish of Livingston, is hereby repealed; and that the power of compensating the jurors of the parish of Livingston, is hereby given exclusively to the police jury of said parish.

Act 12 March, 1835, p. 58.

Section 1. That any person regularly drawn and summoned to serve as grand or petit [juror], or juror *de talibus*, at the district courts of the parishes of Terrebonne, Lafourche Interior, Assumption, Lafayette, and St. Martin, shall be allowed the sum of one dollar for each and every day he shall attend such courts, and the sum of six and one quarter cents for each and every mile he shall necessarily travel in going to said courts and returning home, to be paid as hereinafter provided for; provided, that mileage shall in no case be allowed for more than once going to and returning from said courts, during the same term.

Section 2. That it shall be the duty of the clerks of said courts, immediately after the persons shall have been discharged, to make out and deliver to each juror, a certificate, specifying the number of days he shall have served,

which he shall be entitled to receive mileage, and the amount due, which shall be ascertained by the oath of the juror, to be administered by the clerk; and such certificate shall be re-

the distance for which he shall be entitled to receive mileage, and the amount due, which shall be ascertained by the oath of the juror, to be administered by the clerk; and such certificate shall be receivable in payment of parish tax, or [be] paid out of such fund as is hereinafter established as a jury fund.

Act 2 April, 1835, p. 240.

Section 1. That from and after the passage of this act, the grand and petit jurors of the parish of St. Landry, shall receive an additional compensation of fifty cents per day, to be paid as already provided for by law.

Section 2. That the jurors of the parishes of Natchitoches, and Claiborne, shall receive the same compensation, to be paid in the same manner, as the jurors of the parish of St. Landry, all laws to the contrary notwithstanding.

Act 13 March, 1837, p. 88.

Section 1. That from and after the passage of this act, the grand and petit jurors in and for the parish of East Feliciana, shall be entitled to receive the sum of two dollars per diem, for their services as jurors.

Act 27 March, 1840, p. 115.

An act of 1841 repeals all the former laws on the subject of jurors in the parish of Avoyelles; revives the act of 24th March, 1823, entitled "an act allowing compensation to jurors, and for other purposes," so far as that parish is concerned; and provides—

Section 2. That from and after the promulgation of this act, the jurors of the parish of Avoyelles shall receive out of the jury fund a compensation of two dollars per day, during their attendance at court, together with the usual mileage going from and returning home.

Section 3. That it shall be the duty of the collector of parish taxes of said parish of Avoyelles, to receive in payment of the parish taxes the certificates of the jurors for their attendance at par, and that said certificates shall be paid out of any moneys in the parish treasury not otherwise appropriated.

Act 8 March, 1841 p. 79.

Section 1. That any person who has been, or who may hereafter be regularly drawn and summoned to serve as a grand or petty juror, at the several district courts of the ninth judicial district in this state, shall be allowed the sum of three dollars for each day he shall attend said court as a juror, and twelve and one half cents for every mile he may necessarily have to travel in going to court and returning home; provided, that mileage shall only be allowed once during the same term [to] a juror.

Section 2. That said jurors shall be paid out of any moneys in the treasuries of the respective parishes in which they may serve, not otherwise appropriated, in the manner provided for by existing laws.

Act of 8 March, 1841, p. 106,

§ 2, act 24 March, 1823, 1 D. 627.

ceivable in payment of the parish tax, or [be] paid out of any moneys in the parish treasury not otherwise appropriated.

ART. DXXVI.²⁹ Every person accused and indicted, shall be allowed and admitted to make his full defence by counsel learned in the law; and the court before whom such person shall be tried, or some judge thereof, shall, immediately upon his request, assign to such person such counsel as such person shall desire, to whom such counsel shall have free access at all seasonable hours.³⁰

ART. DXXVII.³¹ The judges of the [³²district] courts shall not permit more than two attorneys or counsellors to argue on the same side, in any cause, except in criminal cases.

ART. DXXVIII.³³ No slave³⁴ shall be admitted as a witness in criminal³⁵ matters, for or against a white person.

ART. DXXIX.³⁶ No slave shall be admitted as a witness in criminal³⁷ matters for or against a free person of color, except in case such free individual be charged with having raised, or attempted to raise, an insurrection among the slaves of this

²⁹ Part of § 35, act 4 May, 1805, 1 D. 370.

³⁰ For the rest of this section, see art. DXV, and note 3, *ante*. See also art. DXII.

³¹ § 7, act 31 March, 1808, 1 D. 30.

³² This act, as originally passed, read "the judges of the superior, circuit, and parish courts." The superior and circuit courts were done away by the act of 10 February, 1813, 1 D. 292, establishing the present district courts, the 16th section of which, art. CCCXLVIII, provides, that "the proceedings of the said district courts shall be governed by the acts of the territorial legislature, regulating the proceedings of the late superior court of the territory of Orleans." The parish courts have no criminal jurisdiction over free persons, see § 12, act 31 March, 1807, 1 D. 337.

³³ § 1, act 19 March, 1816, 1 D. 127.

³⁴ A person of color will be presumed to have been born free; citing *Adele v. Beauregard*, 1 Mar. 183. *State v. Cecil*, 2 Mar. 208.

³⁵ This section in the original act reads, "either in civil or criminal matters."

³⁶ § 2, act 19 March, 1816, 1 D. 127.

³⁷ This section reads in the original "either in civil or criminal matters."

state, or adhering to them by giving them aid or comfort in any manner whatsoever.

ART. DXXX.³⁸ Every court of criminal jurisdiction may compel the personal attendance of any witnesses, for and against the prosecution, on the trial of any crime or misdemeanor, whenever the said witnesses reside, or may be found, in the district where the said court sits, and not otherwise.³⁹

ART. DXXXI.⁴⁰ Every witness who shall be legally summoned to appear at any district court, shall appear accordingly, and continue to attend from term to term until the cause in which he shall be summoned shall be decided, or until discharged by the court, or by the party at whose instance the witness was summoned, under the penalties already prescribed by law.⁴¹

ART. DXXXII.⁴² Witnesses shall receive one dollar for each twenty miles they shall have to travel in going and returning from the court where they shall be summoned; and each day he shall be detained on the trial of any cause,⁴³ the

³⁸ § 11, act 6 March, 1819, 1 D. 399.

³⁹ See article 6, § 18, of the constitution of the state, art. DXII.

⁴⁰ Part of § 21, act 26 March, 1813, 1 D. 302.

⁴¹ This section reads in the original, "summoned to appear at any district or parish court." The parish court having no criminal jurisdiction, see § 12, act of 31 March, 1807, 1 D. 337, so much as relates to that court is omitted.

A proviso, which forms a part of the section of the act of 1813 in the text, 1 D. 302, declares, "that in case the suit [le procès, french text] depending shall, in the vacations, be settled by the parties, and the party at whose instance any witness was summoned, shall neglect or omit to discharge him or her from further attendance, and he or she, for want of such discharge, shall attend at the next term, in such case the witness, upon oath made of the facts before the clerk of the court, shall be entitled to a certificate from the clerk, stating the amount legally due to the witness for such extra attendance, allowing the same as in other cases of witnesses' attendance, which sum such witness shall recover from the party at whose instance he or she was summoned."

⁴² § 11, act 28 March, 1813, 1 D. 468.

⁴³ The law in force at the time of McFall's case, 2 Mar. 171, provided, that

sum of one dollar : provided however, that every witness over two, summoned to prove any one fact, shall be paid by the person at whose instance they may have been summoned.

ART. DXXXIII.⁴⁴ When any person shall be charged before any tribunal with any criminal offence, breach of the peace, or any other crime in which the state shall be a party, all the estate, both real and personal, that the said person shall be possessed of at the time the crime of which he stands charged shall have been committed, shall be bound for the payment of all costs that shall have occurred in any of the aforesaid cases.⁴⁵

ART. DXXXIV.⁴⁶ No person or persons shall be subject to the payment of costs, whenever acquitted by the court or jury.⁴⁷

witnesses should be allowed compensation "for each day they shall be detained on the trial of any cause,"—the french text allowing for every day, "*qu'ils seront détenus près du tribunal.*" In that case the court decided, that where a witness living in another state, was recognized as he was returning home, and compelled to wait till the meeting of the court, the time being too short to allow him to go and return, he should be paid for the whole time he was compelled to wait, observing, that his case came within the very letter of the french part of the act, "*détenus près du tribunal.*" The act in the text was passed subsequently to this decision, which was made at the spring term, 1812; the english text of the present law, is the same with that under which *McFall's* case was decided; but the french is changed to, "*pour chaque jour qu'ils seront retenus pour le jugement de la cause.*"

⁴⁴ § 3, act 20 February, 1817, 1 D. 406.

⁴⁵ This act virtually repeals the first part of § 39, of the act of 4 May, 1805, 1 D. 371, the last part of which was done away with, by § 7, of the act of 22 February, 1817, 1 D. 385.

⁴⁶ Part of act 1 March, 1820, 1 D. 407.

⁴⁷ This act repealed § 2, of the act of 20 February, 1817, 1 D. 406, which gave the district judge power to decree that a defendant in a criminal prosecution, though acquitted, should pay the costs. See § 5, of the act of 9 March, 1827, 1 D. 359, b. 2, c. 2, n. 319, for exception, in cases of breach of the peace, in the parish of Orleans.

A person who is "silly" or "insane" is not responsible for his acts.

CHAPTER VIII.

JUDGMENT AND ITS CONSEQUENCES.

DXXXV. *Law to be cited and reasons adduced by judges, in every definitive judgment.* **DXXXVI.** *Judgments and sentences to be pronounced in open court, and entered on minutes.* **DXXXVII.** *Where fine and imprisonment at discretion of court, how limited.* **DXXXVIII.** *Where fine not paid, offender to be imprisoned.* **DXXXIX.** *Where sentenced to imprisonment, and to fine and costs, and to stand committed till paid, how offender may take the benefit of insolvent law for such fine and costs.* **DXL.** *Persons convicted of any high crime or misdemeanor, excluded from all offices of trust or profit, and from right of suffrage.* **DXLI.** *When convicted of any crime, not to be allowed to practice as counsellor or attorney.* **DXLII—III.** *Criminals sentenced to infamous punishment, incapable of marriage till punished or pardoned.* **DXLIV.** *No conviction or judgment to work corruption of blood, or subject offender to any forfeiture or penalty not specified by law.*

ART. DXXXV.¹ The judges of all courts within this state shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may have been rendered, and in all cases adduce the reasons on which their judgment is founded.

Art. 4, section 12, constitution of Louisiana.

ART. DXXXVI.² All judgments and sentences to be rendered in criminal cases in the said courts, shall be pronounced in open court, and shall be entered on the minutes of the court by the clerk.

ART. DXXXVII.³ Whenever the punishment of fine and imprisonment [is] left by law at the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years.⁴

ART. DXXXVIII.⁵ Every person being adjudged to pay any fine, shall, in default of payment or recovery thereof, be adjudged to be imprisoned for a period not exceeding one year.

ART. DXXXIX.⁶ Whenever a person is sentenced to imprisonment for a given time, and to pay a fine and costs, and to stand committed until they are paid, and the said person has not the means to make the payment, such person may, after the expiration of the time for which he was sentenced to imprisonment, and after having served said time, be enabled to take the benefit of the insolvent laws for said fine and costs, or either of them, in the same manner as common debtors in actual custody.

ART. DXL.⁷ Every individual who shall hereafter be convicted of bribery, perjury, forgery, or any other high crime or

² § 52, act 4 May, 1805, 1 D. 374.

³ § 12, act 19 March, 1818, 1 D. 389.

⁴ The act of 4 May, 1805, for the punishment of crimes and misdemeanors, provides, p. 373—

Section 44. In all sentences for crimes and misdemeanors, where the punishment is made by this act discretionary, such punishment shall be at the discretion of the court having cognizance of such crime or misdemeanor.

⁵ § 10, act 19 March, 1818, 1 D. 388.

⁶ Act 15 March, 1830, p. 64.

⁷ Act 21 January, 1825, 2 D. 259.

misdemeanor, shall for ever be excluded from all offices of trust and profit, and from the rights of suffrage in this state.⁸

ART. DXLI.⁹ Every person who has been heretofore, or may be hereafter convicted of any crime, shall be disqualified from obtaining a license as [counsellor or attorney at law] ; and if such person should have obtained a license, it shall be the duty of the judges of the [¹⁰district court] in which said person may practice, upon proof of such conviction, to withdraw the license of such person, and annul the same.

ART. DXLII.¹¹ Criminals definitively sentenced to death are incapable, until pardoned, of entering into the marriage contract.

ART. DXLIII.¹² Persons sentenced to imprisonment, pillory,¹³ or other infamous punishment, are not able to contract matrimony, until such punishment has been inflicted, or the offender pardoned.¹⁴

⁸ The 4th section of the 6th article of the constitution of this state, provides, that "laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors." The 21st section of the act of 20 February, 1817, 2 D. 430, art. LXXX., provides, that any insolvent debtor who shall be found guilty of fraud, shall be forever incapable of "holding any office of trust or profit under the government of the state."

⁹ § 3, act 31 March, 1808, 1 D. 29.

¹⁰ This section conferred the power of withdrawing such licenses upon the judges of the superior court of the territory of Orleans. The act of 10 February, 1813, § 16, 1 D. 295, provides that the district courts established by it, "shall have the same powers which were granted to the said superior court." See art. CCCXLVIII.

¹¹ § 11, act 6 April, 1807, 2 D. 5.

¹² § 12, *ibid*.

¹³ The punishment by confinement in the pillory was abolished as to white persons, by the act of 1 March, 1827, 1 D. 404, art. DXLVII.

¹⁴ This section, as originally passed, read, "sentenced to *whipping*, imprisonment," &c. The punishment of whipping was abolished as to free persons, in all cases, by § 7, of the act of 17 February, 1821, 1 D. 337, art. DXLVIII.

ART. DXLIV.¹⁵ No conviction or judgment for any offence,¹⁶ shall work corruption of blood, or subject the offender to any other forfeiture or penalty, than such as is hereinbefore declared and specified.

¹⁵ § 40, act 4 May, 1805, 1 D. 372.

¹⁶ This act reads in the original, "No conviction or judgment for any of the offences aforesaid." The preceding section of the act provides, for convictions *of any crime or misdemeanor*.

CHAPTER IX.

REPRIEVE, PARDON, AND EXECUTION.

DXLV. *Power of Governor to remit fines and forfeitures, and grant reprieves and pardons, with the approbation of the senate—power to grant reprieves in cases of treason.*
DXLVI. *Power of governor and senate to commute punishments.* DXLVII. *Punishment of pillory abolished as to whites.* DXLVIII. *Whipping abolished as to free persons.* DXLIX. *Convicts sentenced to imprisonment at hard labor, to be sent to penitentiary at Baton Rouge—*DL. *how to be employed.* DLI. *Solitary confinement in penitentiary abolished, with what exceptions.* DLII. *No free person to be executed, before record certified to the governor, and his warrant issued.* DLIII. *Clerk to transmit record of trial to the governor, who may delay issuing warrant of execution how long.* DLIV. *Punishment of death to be by hanging.* .

ART. DXLV.¹ [The governor] shall have power to remit fines and forfeitures, and, except in cases of impeachment, to grant reprieves and pardons, with the approbation of the senate. In cases of treason he shall have power to grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

¹ Art. 3, section 11, constitution of Louisiana.

ART. DXLVI.² The power of commuting punishments shall be vested only in the governor and senate, and they may, and are hereby authorized to commute the punishment of crimes and offences.

ART. DXLVII.³ No white person within the limits of this state shall be sentenced to public exposure at the pillory, which is hereby abolished, inasmuch as it concerns white persons only.

ART. DXLVIII.⁴ The punishment of whipping free persons, for whatever offence it may be, is hereby abolished.

ART. DXLIX.⁵ All convicts sentenced to imprisonment at hard labor⁶ by any of the courts of this state having jurisdiction in criminal cases, shall be conveyed by the sheriff of the parish in which the prisoner has been convicted, to the penitentiary-house at Baton Rouge, and there delivered to the warden of the penitentiary.⁷

ART. DL.⁸ The convicts shall not be employed without

² Part of § 20, act 20 March, 1818, 1 D. 396.

³ Act 1 March, 1827, 1 D. 404.

⁴ § 7, act 17 February, 1821, 1 D. 337.

⁵ Part of § 2, act 10 March, 1834, p. 100.

⁶ The words "or to solitary imprisonment" in the original act, are omitted, that mode of punishment having been abolished by the act of 12 March, 1838, section 4, art. DLI.

⁷ For the rest of this section see .b 2. ch. 2. note 270. Section 46 of the act of 4 May, 1805, 1 D. 372, and sections 1 and 3 of the act of 24 February, 1814, 1 D. 283, may be considered as virtually repealed by the acts establishing the penitentiary at Baton Rouge. An act of 5 March, 1841, p. 46, authorizing the establishment of work-houses and houses of refuge by the several municipalities of the city of New-Orleans provides, § 3, art. CCCLXXXII, that the judge of the criminal court may "sentence all persons under the age of fifteen years, convicted of any crime, excepting for capital offences, committed within either municipality where a house of refuge is established, to be confined within said house of refuge."

⁸ § 1, act 13 March, 1837, p. 100. See last note as to § 46, act 4 May, 1805, 1 D. 372.

the walls of the penitentiary, but when acting and working in the actual and direct service of the institution, in taking or employing materials for the use of the institution.

ART. DLI.⁹ Solitary confinement in the penitentiary is hereby abolished, except in enforcing obedience to the regulations [of] the police thereof.

ART. DLII.¹⁰ No free person upon whom sentence or judgment of death shall be passed by any court of this state, shall be executed and put to death in pursuance of such judgment, before the whole record of the proceedings in such case be certified by the clerk of the same court, under the seal thereof, to the governor of this state; nor until a warrant shall be issued by the governor, under the seal of the state, with a copy of the record thereunto annexed, directed to the sheriff of the court wherein the said sentence or judgment was passed, commanding the said sheriff to cause the execution to be done on the person so condemned as aforesaid, in all things according to the judgment against him or her; and it shall be the duty of the sheriff to whom such warrant shall be directed, to execute the same in due form of law.

ART. DLIII.¹¹ It shall be the duty of the clerk of the court in which such judgment shall have been rendered, to make out a true copy of the record of all proceedings in such case, and to transmit the same, without delay, to the governor of this state; and should the said record be received by the governor during the recess of the senate, he may, whenever he shall deem the same proper, delay awarding any warrant of execution until the end of the next session.

⁹ § 4, act 12 March, 1838, p. 109.

¹⁰ § 1, act 20 March, 1813, 1 D. 378.

¹¹ § 2, *ibid.*

Art. DLIV.¹² The manner of inflicting the punishment of death shall be, by hanging the person convicted by the neck until dead.

¹² § 38, act 4 May, 1805, 1 D. 371.

I N D E X .

ABSENT PERSON,

- Failure by probate judge to cause bonds of curator from which results legal mortgages in favor of, to be recorded without delay, LVII.
- Obtaining money or other property by curator by granting mortgage or privilege on property subject to legal mortgage in favor of, when such mortgage has not been recorded, without declaring the same, LXXXVI.

ACADEMY,

- Failure of regents, trustees, directors, &c. of, to make reports required by law, XXII.

ACCESSARY,

- How defined, I, and n. 2.
- Before the fact, II.
- After the fact, III.
- After the fact, in certain burglaries, IV.
 - concealing or conveying away slave accused of any crime, when done by master or person in charge of such slave, V.

ACCUSED,

- Not to be forced to answer interrogatories, CCCCLXXXI, III.
- Voluntary declaration of, how to be taken, *ibid*.
- May have his witnesses bound over, when, CCCCLXXXVI.
- Right of, to copy of depositions of witnesses before committing magistrate, CCCCLXXXIX.
 - to be heard by himself, or counsel, DXII, DXXVI.
 - to demand nature and cause of accusation, DXII.
 - to meet witnesses face to face, *ibid*.
 - to compulsory process for obtaining his witnesses, *ibid*.
 - to a speedy trial by a jury of the vicinage, *ibid*.
- Not to be compelled to give evidence against himself, *ibid*.
- In what cases to have copy of indictment and list of jury, two days before trial, DXV.

ACCUSED—continued,

To have such counsel assigned him as he may desire, DXXVI.

Such counsel to have access to, at all seasonable hours, *ibid.*

ADMINISTRATOR,

Of parish schools, refusal to accept or neglect of duties of office by, XX.
failure by, to make reports required by law, XXII.

ALDERMAN,

Of city of New Orleans, powers of in regard to vagrants, b. 1, c. 7, n. 53.

to be appointed a justice of the peace, b. 2, c. 2, n. 298.

to receive no fees or compensation as such, *ibid.*

ALE HOUSE,

Keeping any disorderly, CL.

ALIEN,

Master of vessel arriving at New Orleans to report name, age, occupation,
and means of subsistence of any, a passenger in his vessel, CLXXI.

to give bond that such passenger do not become a vagrant, nor be
found guilty of any crime, misdemeanor, or breach of the peace,
in two years, CLXXII.

suffering any such passenger to land before giving such bond, and
without written permission from mayor or recorder, CLXXII.

such bond may be dispensed with, when, CLXXIII.

or to land at any place, with intent to proceed to New Orleans
otherwise than in said vessel, CLXXV.

Mayor or recorder to examine and take description of such passenger,
CLXXIV.

Refusal by such passenger to submit to examination, *ibid.*

Knowingly entertaining by any householder in New Orleans or suburbs,
any passenger so landed, and not reporting such passenger, CLXXVI.

ALTERATION FRAUDULENT,

See Forgery.

AMMUNITION,

Concealed, power of justice to search for, CCCCLXI.

ANCHOR,

Found in the Mississippi, neglect or failure to comply with law in regard
to, CCLXXVIII.

APOTHECARY,

Practising as, without license, CLXXVII.

To be exempt from serving as juror, DXVII.

APPEAL,

To supreme court from criminal court of first district, when allowed,
CCCLXI-II.

APPRENTICE,

Absconding or absenting himself from service of master or mistress, without leave, CLXXVIII, CCXLIV.

or not discharging his duty to such master or mistress, CCXLIV.

Abuse, or cruel or evil treatment of, or neglect of duty towards, by master or mistress, *ibid.*

ARMS,

Carrying, by free persons of color, without certificate of freedom, CLXXXI.

may be seized by any person, *ibid.*

duty of person seizing such arms, b. 1, c. 7, n. 82.

Concealed, power of justice to search for, CCCCLXI.

ARRAIGNMENT,

Standing mute on, DXI.

ARREST,

Warrants of, to be executed throughout the state when indorsed—prisoner to be remanded where, CCCCLXXVI.

indorsement when unnecessary in the parishes of Orleans and Jefferson, CCCCLXXVII-VIII.

Members of general assembly, when privileged from, CCCCLXXIX.

Of person found guilty by inquest, to be made by coroner, CCCCLI.

Of persons keeping or playing at any gaming house or bank, may be made by any person, b. 1, c. 7, n. 38.

Of vagrants or suspicious persons, CCCXC.

Of vagrants in New Orleans, b. 1, c. 7, n. 53.

How made, where offence committed in one parish and offender flies into another—prisoner to be remanded—expense how paid, CCCCLXXXIV.

In New Orleans, how made, where offender commits any crime or misdemeanor in one municipality and escapes into another, b. 2, c. 2, n. 298.

ARSON,

How defined, I, and n. 2.

Punishment of, CCL.

ASS,

Maliciously killing any, the property of another person, CCLXXXI.

or wantonly or cruelly beating, maiming, or disabling, CCLXXXII.

ASSAULT,

How defined, I, and n. 2.

Of any officer or other person, while serving process or order of any court, XLIII.

And beating any person, CCXXXIX.

With intent to commit rape, or robbery, CCXL.

With a dangerous weapon, or with intent to kill, CCXLI.
second offence, CCXLII.

ASSAULT—continued,

With a dangerous weapon, or with intent to kill, and wounding less than mayhem, *ibid*.

And beating any white, by free person of color, CCXLIII.

And battery, special jurisdiction of judge of city court of Lafayette in cases of—trial before to be by jury, CCCCXVII.

ASSEMBLY,

Unlawful, assisting at any, LXXI.

Peaceable of the people, maliciously disturbing or causing to be disturbed, LXXII.

General, see *Legislature*.

ASSESSOR,

Of taxes, placing on tax list one having no property, nor following an occupation subject to taxation, XXXVI.

ATTORNEY AT LAW,

Practising as, without license, LVIII.

Contempt of court by, how punished, LIX.

What to be construed to be a contempt of court in, LX.

Fraudulent practice, or betraying client's interest by, LXI.

accused how to be tried, b. 1. c. 4, n. 39.

Neglect or refusal by, to pay over money collected, LXII.

Not to have benefit of insolvent laws for money collected, LXIII.

Not to give evidence of any thing confided to him by client, without consent of latter, b. 1, c. 4, n. 40.

Appearing or pleading as, by parish judge, sheriff, deputy sheriff, or clerk, in court of which he is an officer, LXIV.

Judges of supreme court not to practise as, b. 2, c. 2, n. 17.

nor judge of criminal court of first district, CCCLXIII.

nor judges of city court of New Orleans, b. 2, c. 2, n. 320.

Right of accused to make full defence by, DXXVI.

to have such assigned him as he may desire—such counsel to have access to accused at all seasonable hours, *ibid*.

How many may argue on same side, DXXVII.

Persons convicted of any crime disqualified to practise as, DXLI.

ATTORNEY GENERAL,

How appointed, CCCCXXI.

For what time, CCCCXXVI.

To prosecute all offences, and conduct all suits in which state interested, in first judicial district, CCCCXXII.

To attend in person or by deputy, and prosecute in criminal court of first district in St. Bernard, St. Charles, and St. John the Baptist, CCCCXVIII.

To discharge duties in person, CCCCXXVI.

May act by deputy when, CCCXCVIII, b. 2, c. 2, n. 239.

ATTORNEY GENERAL—continued,

District attorney for the first district to be appointed to assist—salary of such assistant, CCCCXXIII.

To attend sessions of court till business of state disposed of, CCCCXXVI.
in case of failure to attend, court may appoint prosecuting attorney *pro tempore*, CCCCXXX.

Salary of, CCCCXXII.

Fee allowed on every criminal prosecution, CCCCXXVII.

to have execution or order of seizure for recovery of, CCCCXXVIII.

commission allowed, on amount recovered on forfeited recognizances for attendance at court, CCCCXXIX.

Fee allowed, on prosecutions against persons failing to make reports required by law concerning any college, academy, or public school, b. 1, c. 3, n. 31.

on prosecutions for violation of law for preventing slaves from obtaining intoxicating liquors, b. 1, c. 7, n. 144.

To be entitled to one half of money or other property seized at any gaming house or table, b. 1, c. 7, n. 38.

to one fourth of fine imposed on any person resisting certain officers or their agents attempting to enter, or apprehend keepers of any gaming house or bank, *ibid*.

Commission allowed on amounts recovered under act prohibiting lotteries, b. 1, c. 7, n. 44.

on amount of penalty recovered against parish judge, neglecting or refusing to keep his office at seat of justice of parish, b. 1, c. 4, n. 29.

May be removed for malfeasance or improper conduct by impeachment, or by address of legislature, CCCCXXVI.

To prosecute persons exciting discontent among free colored population, or insubordination among slaves—penalty for refusal or neglect, b. 1, c. 3, n. 6.

Duty of, where public money diverted or misapplied by treasurer of state, XVII.

To inquire whether parish judges perform their duties in relation to police juries, and to move against them in case of failure, XIX.

To sue for fine imposed on any administrator, or treasurer of board of administrators of parish schools, for refusal to accept or neglect of duties of appointment, XX.

To file information against trustee of any parish school embezzling or misapplying money drawn from the state, XXI.

To prosecute officer or other person failing to make report required by law concerning any college, academy, or public school, b. 1, c. 3, n. 31.
or any person attempting to vote in more than one precinct at any election in the parish of Orleans, b. 1, c. 3, n. 41.

ATTORNEY GENERAL—continued,

- To file information against assessor of taxes placing on tax list one not liable to taxation, XXXVI.
 - or against commissioner or other person holding an election, for failure to make returns, XXXVIII.
- To sue for penalty imposed on parish judge refusing or neglecting to keep his office at seat of justice of parish, b. 1, c. 4, n. 29.
- To recover fine imposed on any officer knowingly stamping any weight or measure not corresponding with legal standard, LXXXVII.
 - or on any person, not legally authorized, selling property at auction, CXVIII.
- To prosecute any notary in New Orleans passing any sale or executing lien on real estate, before obtaining certificate from register showing whether the same be mortgaged, and to what amount, b. 1, c. 6, n. 88, or any person violating law concerning pedlers and hawkers, b. 1, c. 6, n. 93, 97.
- To sue owner of house in which illegal gaming carried on, when, b. 1, c. 7, n. 33.
- Refusal or neglect by, to enforce law against gaming, b. 1, c. 7, n. 38.
- To prosecute persons betting on elections, and report names of those convicted, b. 1, c. 7, n. 42.
- To recover by information or suit, money or other property drawn as a prize in any lottery not authorized by law, CLXIII.
- To prosecute any person violating law concerning vagrants, b. 1, c. 7, n. 53, or practising medicine or acting as an apothecary in the county of Orleans without license, b. 1, c. 7, n. 76.
 - or any free person of color coming into the state contrary to law, b. 1, c. 7, n. 86.
 - or any person violating act relative to the introduction of slaves into the state, b. 1, c. 7, n. 101.
- To recover fine imposed on proprietor failing to keep one white for every thirty slaves, CC.
 - or refusing to give parish judge statement of number of whites so employed, CCI.
 - or burying dead in New Orleans, contrary to law, b. 1, c. 7, n. 178.
- May prosecute by indictment or information for fine imposed on any one bringing any free person of color into the state, and holding, or offering such person for sale as a slave, CCXLIX.
- To prosecute any person maliciously killing, or wantonly or cruelly beating, maiming, or disabling any horse, mule, ass, cow, or dog belonging to another person, b. 1, c. 9, n. 49.
- To sue for costs in cases of impeachment, when, CCXCIX., CCC.
 - on sheriff's bond, when, b. 2, c. 2, n. 256.
- Duty of, in regard to recognizances for attendance at court, CCCCLXXIII.
 - where crime or misdemeanor committed and no complaint made, CCCXCIX.

ATTORNEY, DISTRICT,

How appointed, CCCCXXI.

for what time, CCCCXXVI.

Duties of, as public prosecutor, CCCCXXII.

To sue in all cases where state is a party, CCCCXCVIII.

To discharge duties in person, CCCCXXVI.

To attend sessions of district court till business of the state disposed of, ib.
in case of failure to attend, court may appoint prosecuting attorney,
pro. tem., CCCCXXX.

Salary of, CCCCXXII.

Fee allowed on every criminal prosecution, CCCCXXVII.

to have execution or order of seizure for recovery of, CCCCXXVIII.

Fee allowed, on prosecutions against officer or other person failing to make
report required by law concerning any college, academy, or public
school, b. 1, c. 3, n. 31.

on prosecutions for violation of law for preventing slaves from ob-
taining intoxicating liquors, b. 1, c. 7, n. 144.

Commission allowed on amount recovered on forfeited recognizance for
appearance or attendance at court, CCCCXXIX.

on amount of penalty recovered against parish judge neglecting or
refusing to keep his office at seat of justice of parish, b. 1, c. 4,
n. 29.

on amounts recovered under act prohibiting lotteries, b. 1, c. 7,
n. 44.

To be entitled to one half of money or other property seized at any gaming
house or table, b. 1, c. 7, n. 38.

to one fourth of fine imposed on any person resisting certain offi-
cers or their agents entering, or apprehending keepers of any
gaming house or bank, *ibid.*

May be removed by impeachment or by address of legislature, when,
CCCCXXVI.

To prosecute persons exciting discontent in free colored population or in-
subordination among slaves—penalty for refusal or neglect, b. 1, c. 3,
n. 6.

To inquire whether parish judges perform their duties in relation to police
juries, and to move against them in case of failure, XIX.

To sue for fine imposed on any administrator, or treasurer of board of ad-
ministrators of any parish school refusing to accept or neglecting duties of
appointment, XX.

To file information against trustees of any parish school embezzling or
misapplying money drawn from the state, XXI.

To prosecute officer or other person failing to make report required by
law concerning any college, academy, or public school, b. 1, c. 3, n. 31.

To file information against assessor of taxes placing on tax list one not
liable to taxation, XXXVI.

ATTORNEY, DISTRICT—continued,

- To file information against any commissioner or other person holding elections, for failure to make returns, XXXVIII.
- To sue for penalty imposed on any parish judge refusing or neglecting to keep his office at seat of justice of parish, b. 1, c. 4, n. 29.
- To recover fine imposed on any officer knowingly stamping any weight or measure not corresponding with legal standard, LXXXVII.
- To prosecute any person violating law concerning pedlars and hawkers, b. 1, c. 6, n. 93, 97.
- To sue owner of house in which illegal gaming carried on, when, b. 1, c. 7, n. 33.
- Refusal or neglect by to enforce law against gaming, b. 1, c. 7, n. 38.
- To prosecute persons betting on elections, and report names of those convicted, b. 1, c. 7, n. 42.
- To recover by information or suit, money or other property drawn as a prize in any lottery not authorized by law, CLXIII.
- To prosecute any free person of color coming into the state contrary to law, b. 1, c. 7, n. 86.
 - or any person violating act relative to the introduction of slaves into the state, b. 1, c. 7, n. 101.
- To recover fine imposed on any proprietor failing to keep one white for every thirty slaves, CC.
 - or refusing to give parish judge statement of number of whites so employed, CCI.
- May prosecute by indictment or information for fine imposed on any one bringing into the state any free person of color, and holding or offering such person for sale as a slave, CCXLIX.
- To prosecute any person maliciously killing, or wantonly or cruelly beating, maiming, or disabling any horse, mule, ass, cow, or dog belonging to another person, b. 1, c. 9, n. 49.
- To sue for costs in cases of impeachment, when, CCXCIX, CCC.
 - on sheriff's bond, when, b. 2, c. 2, n. 256.
 - for fine imposed on clerk of parish court failing to transmit copy of sheriff's bond to treasurer, *ibid*.
 - for fine imposed on clerk or justice failing to make out list of fines required by law, *ibid*.
- Duty of, in regard to recognizances for appearance or attendance at court: CCCCLXXXIII.
 - where crime or misdemeanor committed and no complaint made, CCCCXCIX.
- For the first district,*
 - how appointed—his duty—salary, CCCCXXIII.
- For the fourth district,*
 - duty of, to prosecute offender against certain acts relative to bayou Plaquemine, b. 1, c. 7, n. 10.

ATTORNEY, DISTRICT—continued,*For the fifth district,*

to prosecute officer presiding at election of members of police jury in parishes of St. Mary, St. Martin, and Lafayette, knowingly receiving illegal votes, b. 1, c. 3, n. 26.
or commissioner of election in St. Martin failing to attend, b. 1, c. 3, n. 36.

ATTORNEY, STATE,

In parishes of East and West Feliciana, and East Baton Rouge, how appointed, CCCCXXIV.
to reside in parish for which appointed, *ibid.*
to perform duties of district attorney in such parish, *ibid.*
salary and perquisites of, CCCCXXV.

AUCTION,

Selling any property at, by one not authorized by law, CXVIII.
Executing or passing by notary or other person deed for property sold at, before state tax paid, CXXII.

AUCTIONEER,

Receiving or accepting higher or further reward than allowed by law, CXX.
Neglect of duty by, b. 1, c. 6, n. 85.
Selling any slave or real estate, without producing certificate from register of mortgages showing whether hypothecated, and to what amount, CXXI.
Announcing sale of property of free persons of color, neglect by, to insert certain words after their names, CXG.

AUTREFOITS ACQUIT,

Plea of, in cases of impeachment, CCXCVI.

BAIL,

Duty of examining magistrate in regard to, CCCCLXXXII, III.
To be allowed in all cases except in capital cases where proof evident or presumption great, CCCCLXXXV, and n. 27.
May be required of libeller, b. 1, c. 5, n. 8.
To be required of master of vessel in suits for penalties imposed by act concerning vagrants, &c., b. 1, c. 7, n. 65.

BANK,

Embezzlement or conversion of money belonging to, or on deposit in, by any officer or person employed in such bank, or aiding therein, CCLXI.
Clerks of, to be exempt from serving as jurors, DXVII.

BANKRUPTS,

Fraudulent, who shall be considered, LXXVIII, IX.
What shall be presumptive evidence of fraud in, b. 1, c. 6, n. 4.
Accusation of fraud against, how tried, b. 1, c. 6, n. 6, 8.
Punishment of fraudulent, LXXX-I, and b. 1, c. 6, n. 6, 8.

BATTERY,

How defined, I. and n. 2.

BATTERY—continued,**Assault and, CCXXXIX.**

of any officer or other person serving process or order of court
XLIII.

of any white, by free person of color, CCXLIII.

of any slave in lawful service of master or other person, without
sufficient motive or lawful authority, CCLXXX.

special jurisdiction of judge of city court of Lafayette in cases of
—trial before, to be by jury, CCCCXVII.

BEEF,

See Inspection of.

BEHAVIOUR, GOOD,

Security for, may be required of libeller, b. 1, c. 5, n. 8.

of idle and disorderly persons, CLXIV.

of vagrants in New Orleans, b. 1, c. 7, n. 53.

BEGGAR,

When to be deemed vagrant, b. 1, c. 7, n. 52.

Permission to, not to extend beyond parish, *ibid.*

BETTING,

On elections, CLIX.

BIGAMY,

How defined, I and n. 2.

Punishment of, CXXXVII.

BILLIARD TABLE,

Keeping within three miles of pilot station, without license, b. 1, c. 7, n. 19.

or in town of Franklin, *ibid.*

or in parish of Rapides, b. 1, c. 7, n. 22.

None but free white citizen to be licensed to keep, in parish of Rapides, *ibid.*

BIRTH,

Of infant, concealment of by mother, or aiding therein, CCKXXIV.

in parish of Orleans, neglect of father or other person present at, to

declare as required by law, b. 1, c. 7, n. 178.

BOARDING HOUSE,

Keeper of, knowingly receiving or concealing deserter from any merchant
vessel, CXXX.

BOND.

Of officer or other person required to give security, failure to cause to be
registered, b. 1, c. 3, n. 20.

delivering commission to such officer, before receiving, *ibid.*

or failing to transmit to attorney general or district attorney, list of
persons neglecting to furnish certificate required by law, *ibid.*

See Recognizance.

BOUND SERVANT,

Absconding or absenting himself from service of master or mistress without leave, CLXXVIII, CCXLIV.

or not discharging duty to such master or mistress, CCXLIV.

Abuse, or cruel or evil treatment of, or neglect of duty towards, by master or mistress, *ibid*.

BREACH,

Of prison, or conspiring to break, how defined, I.
punishment of, XLVII.

Of the peace, committed or apprehended, power of justice, or parish judge in regard to, CCLXXXIX, CCCCLXV.

BRIBERY,

How defined, I. and n. 2.

Of any elector, XXVIII.

Of any judge, or other person concerned in the administration of justice, LI., II.

or other civil officer, LII.

Of any juror, LIII.

Offender convicted of, to be excluded from all offices of trust and profit, and from right of suffrage, DXL.

BRIDGE,

Nuisance to any, CXLI.

Violating privilege of owner of, b. 1, c. 9, n. 45.

BROTHEL,

Keeping any, CL.

BURGLARY,

How defined, I. and n. 2.

Or aiding, consenting or being accessory to before the fact, how punished, CCLV-VII.

Accessaries after the fact in, how punished, IV.

BURNING, MALICIOUS,

How defined, I. and n. 2.

Of any building, vessel, or water-craft, CCL.

or maliciously preparing combustible matter with intent to burn any, CCLI., and n. 4.

Or attempt to burn, any public work, or work of any corporation, not amounting to arson, CCLII.

Of any hovel, crib, cock, mow, or stack of hay, fodder, corn, or grain, or being accessory thereto before the fact, CCLIII.

Of any stack of rice, corn, or other grain or produce, raw or manufactured, by any free negro, mulatto, indian, or mustee, CCLIV.

BURYING,

Dead in New-Orleans in place forbidden by law, b. 1, c. 7, n. 178.

CABLE,

Found in the Mississippi, neglect or failure to comply with law in regard to, CCLXXVIII.

CHALLENGE,

To fight, sending or aiding in sending, where no duel ensues, LXXXVI.
or accepting, or aiding in accepting, LXXXVII.

Of jury, for cause, DXIX, XX.

to the array, DV. and b. 2, c. 5, n. 8.

peremptory, on behalf of prisoner, DXXI.

to what number allowed attorney or counsellor accused of fraudulent practice, or betraying client's interest, b. 1, c. 4, n. 39.

on behalf of the state, DXXII.

state not to exercise right of causing jurors to stand aside, *ibid*.

CHEATING,

By obtaining money or other property under false pretences, LXXXV.

By tutor, curator, or husband, obtaining money or other property by granting mortgage or privilege on property subject to legal mortgage in favor of any minor, interdicted, or absent person, or married woman, without declaring it subject to the same, LXXXVI.

CLERK,

Of house of representatives, duty of, in regard to costs in cases of impeachment, CCXCIX, CCC.

Of any court, appearing or pleading in such court, except as attorney in fact for absentee, LXIV.

to be exempt from serving as juror, DXVII.

charging or receiving higher or other fees than allowed by law, LXV.

failure by to post up copy of fees in his office, and in court house when court in session, b. 1, c. 4, n. 47.

malfeasance or misfeasance in office by, LXVI, CCCXXII.

how to be tried and punished, see *Supreme Court*.

fees of, failure by sheriff or constable to pay over when collected, b. 1, c. 4, n. 53.

failure by, to make out lists of fines imposed by court, b. 2, c. 2, n. 256.

where sentence of death pronounced on any free person, to transmit record of proceedings to governor, DLII, III.

Of supreme court, how appointed, CCCIV.

in case of absence of any judge while court in session, to transmit to legislature statement of number of days and cause of such absence, CCCXIII.

to transmit copy of judgment of supreme court on complaint against any clerk, to judge of court of which accused was clerk, CCCXIX.

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Obtaining money or other property, by granting mortgage or privilege on property subject to legal mortgage in favor of any minor, interdicted or absent person, where such legal mortgage is not recorded, without declaring the same, LXXXVI.

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- shipping, or attempting to ship, coastwise contrary to law, or receiving the same by master of any vessel, CIII.
- taking out or shifting after inspection, or putting in other beef or pork for sale or exportation, CIV.
- altering or defacing brand or mark of inspector of, ibid.
- buying or selling by inspector of, more than necessary for his own use, CV.
- neglect, fraud, or misconduct in inspector, CVI.

OF HAY IN NEW-ORLEANS,

- selling or disposing of any, in bales without inspection, CXIV.
- falsifying weight or effacing mark or brand of weighers of, CXVI.
- neglect by weigher of, to brand bales as required by law, CXV.
- or being interested in sale of, CXVII.

OF FLOUR AND PORK IN ST. FRANCISVILLE,

- mixing indian meal or other substance with flour offered for inspection, CVIII.

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Altering or erasing brand or mark of inspector of, CIX.

demanding or receiving by inspector higher fees than allowed by law, CVII.

or purchasing more flour or pork than necessary for use of his family, CX.

INSPECTOR,

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Of beef, pork, flour, tobacco, or other merchandize in New-Orleans, to be exempt from serving as juror, DXVII.

INSULT,

Of any officer or other person serving any process or order of court, XLIII.

Of any white, by free person of color, CCXLIII.

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Failure by probate judge to cause bond of curator from which results legal mortgage in favor of, to be recorded without delay, LVII.

Obtaining money or other property by curator by granting mortgage or privilege on property subject to legal mortgage in favor of, where such mortgage has not been recorded, without declaring the same, LXXXVI.

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May be appointed in each parish by district judge, CCCLII.

Compensation of, CCCLIII, and n. 132, 133.

Of criminal court of first district, how appointed—his duties, CCCLXXXIII.

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Releasing by master, before expiration of sentence, any slave condemned to service in, XLVI.

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JAILER,

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Of supreme court, to be rendered as soon as possible after trial—delay in no case to exceed fifteen days, CCCXXIV.

to be reduced to writing, and spread on record, *ibid*.

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Of district courts, to be rendered in shortest possible delay, CCCL.
not to be left in suspense at close of session, *ibid*.

Of city court of Lafayette, to be signed by judge,—when may be signed,
CCCCXVIII.

Law to be cited and reasons adduced in every definitive, DXXXV.

In criminal cases, to be pronounced in open court, and entered on minutes,
DXXXVI.

When to render party incapable of contracting marriage till pardoned or
punished, DXLII, III.

Not to work corruption of blood, or other forfeiture or penalty than pre-
scribed by law, DXLIV.

JUDICIARY POWER,

How to be vested, CCXCI.

JURY,

Qualifications of jurors, DXVI.

no pedlar, or hawker, or tavern or grog-shop keeper to be, to try
offences against law for preventing slaves from obtaining intoxi-
cating liquors, b. 1, c. 7, n. 144.

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who in parish of Union, b. 2, c. 7, n. 12.

who to be exempt from serving as, DXVII–III, and n. 15.

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Attempt to corrupt or awe any juror, LIII.

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Power of district courts to fine grand or petit jurors, CCCXLIX.

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Bribery of any officer concerned in the administration of, LI-II.

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One to be appointed in every captain's district except in New Orleans, CCCLVII.

one to be appointed for town of Milneburg—his jurisdiction, b. 2, c. 2, n. 302.

Must be a citizen of the United States, and, except in New Orleans, a freeholder in district, CCCCLV.

in parish of Claiborne any voter may be, b. 2, c. 2, n. 298.

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Functions of, not to be exercised without commission, CCCCLVI.

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Duties of, CCCCLVII.

To be a conservator of the peace, CCCCLVIII.

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Duty of, on complaint of breach of the peace, or other crime or misdemeanor, CCCCLXXXII.

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Declaration before, on complaint of any offence, what to contain, CCCCLXXXVII.

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May bind over witnesses for accused, when, CCCCLXXXVI.

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to disperse runaway slaves or others acting against the peace, CCCCLXI.

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Duty of, where party charged on oath with carrying concealed weapons, CCXC.

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or with violating act concerning pedlars and hawkers, b. 1, c. 6, n. 97.

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Duty of, before whom party charged with keeping or playing, or money or other property found, at any gaming house or bank, is brought, b. 1, c. 7, n. 38.

Refusal or neglect by, to enforce act concerning gaming, *ibid.*

Power of, to impose fine on party transporting for profit or hire, any person or goods across any river, stream, or lake within one league of a licensed ferry, CCLXXIX.

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May condemn idle or disorderly persons to give security for good behavior, when—or commit in case of failure to give security, CLXIV.

May punish vagabonds and suspicious persons, how, CLXV.

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In the parish of Jefferson, powers of, in regard to vagrants, b. 1, c. 7, n. 53.

Duty of, in case of seizure of arms found on free person of color without certificate of freedom, b. 1, c. 7, n. 82.

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Fine imposed on any person purchasing or receiving property from any slave without written authority of owner or manager, may be recovered before, CCXV.

Duty of, where one convicted of receiving without permission, or harboring or concealing any slave, CCLXXII-III.

May issue search warrant for concealed slave, when, CCCCLXXX.

Duty of, where slave in lawful service of master or other person, is beaten by one not having sufficient motive or lawful authority, CCLXXX.

Failure by, to make out and transmit lists of fines imposed by, b. 2, c. 2, n. 256.

or to attend when summoned by district judge, to decide on security offered by sheriffs, *ibid.*

Duty of, in regard to drawing grand and petit juries out of the first judicial district, in case of absence, sickness, or death of parish judge, DIII-IV.

in regard to drawing grand and petit juries in the parishes of St. Bernard, St. Charles, and St. John the Baptist, CCCIV.

JUSTICE OF THE PEACE—continued,

To forward to treasurer of the state copies of depositions taken before, to prove illegal absence of district judge from his district, b. 1, c. 4, n. 32.

To take testimony in cases of impeachment, when, CCXCVII.

may punish witness failing to attend and give evidence, CCXCVIII.

May employ sheriff or deputy to execute orders, writs, &c. in criminal cases, except in parishes of Orleans and Assumption, CCCCLXII.

Giving, or promising any bribe or undue reward to, LI.

Receiving any bribe or undue reward by, LII.

Misdemeanor in office by, LIV.

Fees of, CCCCLXIII.

senator or representatives appointed, to receive no compensation for services as, during term for which elected, or one year after, CCCCLV.

mayor, recorders, and aldermen of New Orleans to receive no fees or compensation as, b. 2, c. 2, n. 298.

Proceedings before, in criminal prosecutions, breaches of the peace, and other cases where state a party, how paid, CCCCLXIV.

JUVENILE OFFENDERS,

Houses of refuge for detention of, authorized to be established in New Orleans, b. 1, c. 7, n. 53.

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KIDNAPPING,

Any free person of color, or aiding therein, CCXLVII.

second offence, CCXLVIII.

LARCENY,

How defined, I, n. 2.

Punishment of, CCLIX.

Of bank notes, bonds, bills obligatory, bills of exchange, promissory notes, lottery tickets, paper bills of credit, or certificates of the United States or of any state, to be punished as larceny of goods and chattels, CCLX.

Of any record, writ, process, or other proceeding of any court, by means whereof any judgment shall be reversed, avoided, or not take effect, XXXIX.

Of any notarial record, act, or document, XII.

Of any horse, ass, or mule, CCLXII.

Of any slave, or hiring, aiding, or counselling any person to commit, CCLXIII.

LARCENY--*continued*,

From the person, by cutting or tearing the clothes, thrusting the hands into the pockets, or otherwise, CCLXXVI.
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LEGISLATURE,

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Members, officers, and clerks of, to be exempt from serving as jurors during session, DXVII.
To determine duration of offices not fixed by constitution, b. 2, c. 2, n. 4.
May remove all civil officers by address of two thirds of both houses, except the governor, judges and those whose removal is otherwise provided for by the constitution, *ibid*.
Power of, to establish courts, CCXCI.
Member of either house of, appointed a justice, to receive no compensation for services as such, during term for which elected, nor one year after, CCCCLV.

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On any river or navigable water, malicious destruction of, LXXIII.
Commencing or finishing any, on the Mississippi in front of another, CXLIV.
Making or commencing any work or building, or causing any house, shed, dykes, &c. to be made or commenced in front of any, in parish of St. Bernard without authority from police jury, b. 1, c. 7, n. 16.

LIBEL,

How defined, I. and n. 2.
How punished, LXXIV.
bail may be required for, b. 1, c. 5, n. 8.
and surety for good behavior, *ibid*.
Indictment for, what necessary in, b. 2, c. 5, n. 12.
Truth of, not admissible in evidence on criminal prosecution, b. 1, c. 5, n. 8.

LIMB,

Of another person, unaliciously cutting off or disabling any, or aiding therein, CCXXXV.

LIMITATION,

Of prosecutions for certain offences, DIX.
for fines and forfeitures, *ibid*.
for introducing certain slaves into the state, or separating infant slave, under ten years, from its mother, contrary to law, b. 1, c. 7, n. 101.
against sheriffs, DX.

LIP,

Maliciously slitting, cutting, or biting off, or aiding therein, CCXXXV.

LODGING HOUSE,

Keeper of, knowingly receiving or concealing deserter from any merchant vessel, CXXX.

LOTTERY,

Setting up or promoting any, not authorized by law, or disposing of any property by, or aiding therein, CLX.

or permitting any such, or the sale of any ticket therein, in any house by owner or occupant thereof, or person having control of such house, *ibid*.

selling or offering to sell or otherwise dispose of, or possessing with such intent, any ticket or part thereof in any such lottery, or aiding therein, CLXI.

advertising any such ticket or part thereof, or inviting any person to purchase or receive the same, CLXII.

sale or transfer of property made in pursuance of, or to aid in any such lottery, to be void, CLXIII.

money or other property drawn as a prize in, to be forfeited to the state—forfeiture how recovered, CLXIII.

MAIMING,

How defined, I. and n. 2.

Punishment of, CCXXXV.

MALFEASANCE,

In office by clerk of any district, parish, or criminal court, LXVI.

by clerk of supreme court, CCCXXII.

failure by clerk of city court of New Orleans to furnish bond and security to be deemed a, b. 1. c. 4, n. 50.

in attorney general or district attorneys, CCCXXVI.

MALICIOUS,

Burning, see *Burning*.

Destruction, see *Destruction*.

MANSLAUGHTER,

How defined, I. n. 2.

Punishment of, CCXXXIII.

Jury may find one accused of murder, guilty of, when, CCXXXII.

Master of any steamboat to be adjudged guilty of, where loss of life results from breaking or bursting of machinery, when boat not examined, and certificate obtained, as required by law, CCXXI.

or from any powder on board, when not notified, CCXXIV.

Persons shipping such powder, without notice to master or clerk of boat, to be judged guilty of, where loss of life results from such powder, CCXXV.

MANSLAUGHTER—*continued*,

Officers of any steamboat on which accidents may happen from high steam, from running into another boat, from being overloaded, or while captain, pilot, or engineer attending to any game, to be deemed guilty of, when, CCXXII.

Master, owner, and agent of any steamboat to be deemed guilty of, where loss of life results from neglect to substitute iron chain for tiller rope, CCXXVII.

MARRIAGE,

Between whom prohibited, b. 1 c. 7, n. 3.

Criminal sentenced to infamous punishment incapable of, till pardoned or punished, DXLII, III.

Celebrating, by one not regularly licensed, CXXXIX.

or except on production of license from parish judge specially authorizing the same, CXL

MARRIED WOMAN,

Failure by notary to cause marriage contract, or other act passed before him, from which results any legal mortgage in favor of, to be recorded without delay, LVII.

Husband of, obtaining money or other property by granting mortgage or privilege on property subject to legal mortgage in favor of, where such legal mortgage has not been recorded, without declaring the same, LXXXVI.

MARSHAL,

Or deputy, failure by, to denounce to magistrate any violation of act for preventing slaves from obtaining intoxicating liquors, b. 1.c. 7. n. 144.

Of the city court of New Orleans, failure by, to pay over money collected, b. 1, c. 4, n. 53.

annual allowance to, for services in criminal matters, b. 2, c. 2. n. 322.

Of the city court of Lafayette, how appointed—to give bond—may be sued on, when—may appoint deputies, CCCCXI.

duties of, CCCCXII.

failure by, to pay over money, CCCCXIII.

fees of—how paid, CCCCXIX.

Of the United States, or deputies, to have access to jails where prisoners confined under the authority of the United States, b. 1, c. 4, n. 53.

MASTER OF VESSEL,

Arriving at New Orleans, to report to mayor or recorder, name, age occupation, and means of subsistence of passengers, CLXXI.

to give bond, that such passengers do not become vagrants, nor be found guilty of any crime, misdemeanor or breach of the peace, in next two years, CLXXII.

MASTER OF VESSEL—*continued*,

Arriving at New Orleans, suffering any such passenger not a citizen to land New Orleans or other port, before bond given, and without permission from mayor or recorder, CLXXII.

mayor or recorder may dispense with such bond when, CLXXIII.

or suffering any such passenger to land at any place with intent to proceed to New Orleans otherwise than in such vessel, CLXXV.

Knowingly receiving and bringing into this state any slave or free person of color convicted of certain crimes, CXC.

Resisting or opposing any harbor master of New Orleans in the execution of his office, CXXXI.

Employing shipping master or other person to ship seamen in New Orleans, who has not given bond, CXXVIII.

Shipping any seaman in any port of entry in the state without certificate of his discharge, or giving notice required by law, CXXIX.

Conveying any slave out of the state without consent of owner, or receiving on board with intent so to do, or concealing on board with a view to enable such slave to escape, CCLXIV, VI. and n. 29.

privilege of owner of such slave, *ibid*,

To be presumed to have received with intent to deprive the owner thereof, where slave found on board without written consent of owner—presumption how destroyed, CCLXV.

Duty of, if in the state, on discovering any slave concealed on board, CCLXX.

Transporting or attempting to transport any colored person out of the state, without complying with the formalities prescribed by law, CCLXVIII-IX.

MAYOR,

Of every city, to be exempt from serving as juror, DXVII.

to be appointed a justice of the peace, b. 2, c. 2, n. 299.

duty of, in regard to free colored persons found in the state contrary to law, CLXXXII-IX.

power of, in regard to apprentice or bound servant absconding or absenting himself from service of master or mistress without leave, CLXXVIII.

Of the city of New-Orleans, power of, in regard to vagrants, CLXIX, b. 1, c. 7, n. 53.

duty of, in regard to passengers arriving in any vessel, CLXXI-IV.

MEASURES,

See *Inspection of Weights and Measures*.

MEMBER,

Of another person, maliciously cutting off, or disabling, CCXXXV.

MIDWIFE,

Practising as, without license, CLXXVII.

MILITIA,

Not to be ordered out on any election day, nor one day previous thereto, except in case of insurrection or invasion, or danger thereof, XXXVII.
Commander in chief of, abuse of power or neglect of duty in, XV.

MINISTER,

Of the gospel, to be exempt from serving as juror, DXVII.

MINOR,

Failure by probate judge to cause bond of tutor or curator, from which results any legal mortgage in favor of, to be recorded without delay, LVII.

Tutor or curator obtaining money or other property by granting mortgage or privilege on property subject to legal mortgage in favor of, when such legal mortgage has not been recorded, without declaring the same, LXXXVI.

Heir, failure of relation of, to attend family meeting when summoned, LXX.

MISDEMEANOR,

Definition of certain, I, and n. 2.

In office, by any judge, justice, sheriff, or other civil officer, LIV.

all civil officers to be liable to impeachment for, CCXCIII.

Committed on or within one hundred yards of parish boundary, or begun in one parish and ended in another, may be tried in either, CCCXXXVI.

Limitation of prosecutions for, DIX

of prosecutions for, against any sheriff, DX.

Conviction of, to exclude from office and from right of suffrage, DXL.

MISFEASANCE,

In office, by clerk of any district, parish, or criminal court, LXVI.

by clerk of supreme court, CCCXXII.

in attorney-general or district attorneys, CCCCXXVI.

MISPRISON,

Of felony, how defined, I, and n. 2.

punishment of, XIII.

MITTIMUS,

What to contain, CCCCLXXXII, and n. 16.

Seal of justice not necessary to, CCCCLX.

MORTGAGE,

Legal, in favor of minor, interdicted, or absent person, or married woman, failure by probate judge or notary to cause to be recorded without delay, LVII.

obtaining by any tutor, curator, or husband, money or other property by granting mortgage or privilege on property subject to

MORTGAGE—continued,

where such legal mortgage has not been recorded, without declaring the same, LXXXVI.

Transporting, or attempting to transport out of the state, any slave subject to, in fraud of mortgagee, CCLXXI.

Selling any slave as real estate by auctioneer without producing certificate from Register of mortgages showing whether the same be subject to, and to what amount, CXXI.

Passing any sale or executing lien on real estate by any notary in New-Orleans without having obtained certificate from Register of mortgages showing whether the same be subject to, and to what amount, b. 1, c. 6, n. 88.

MULATTO.

See *Free Person of Color—Slaves.*

MULE,

Maliciously killing any, the property of another person, CCLXXXI.

or wantonly or cruelly beating, maiming, or disabling, CCLXXXII.

MURDER,

How defined, I, and n. 2.

Punishment of, CCXXIX.

Administering poison with intent to commit, *ibid.*

On trial for, jury may find prisoner guilty of manslaughter, when, CCXXXII.

Indictment for, what necessary in, b. 2, c. 5, n. 12.

MUSTEE,

Free, attempt by, to commit rape on any white woman or girl, CCXXX.

Maliciously burning or destroying by, any stack of rice, corn, or other grain or produce, raw or manufactured, CCLIV.

right of, to trial by jury before ordinary tribunals, DXIII.

See *Free Persons of Color—Slaves.*

MUTE,

Standing, when arraigned, DXI.

NAVIGATION,

Obstructing, of any river, bayou, creek, bay, or lake, CXLI–III.

or of any outlet or natural bayou of the Mississippi, CXLVI.

of bayous Lafourche, Plaquemine, and certain bayous in the parish of Rapides, b. 1, c. 7, n. 10.

of bayou Terre aux Bœufs, b. 1, c. 7, n. 16.

by constructing work on shore of any navigable river, tending to alter its course, or increase its rapidity, or render its navigation more difficult, or embarrass the public use of the same, CXLIV.

or receiving compensation for landing any articles on, or other use of shore of any navigable river, OXLV.

NAVIGATION—*continued*,

Commencing or finishing any embankment on the Mississippi in front of another, CXLIV.

or making or commencing any work or building, or causing any houses, sheds, dykes, &c., to be made in front of any levee in the parish of St. Bernard, without authority from police jury, b. 1, c. 7, n. 16.

NOSE,

Maliciously slitting, cutting, or biting off, or aiding therein, CCXXXV.

NOTARY,

Neglect by, to insert in acts passed before him, christian names of parties in full, and family name of married woman or widow, b. 1, c. 4, n. 27.

or to insert certain words after names of free persons of color, in acts in which they are concerned, CXC.

Failure by, to cause marriage contract or other act passed before him, from which results any legal mortgage in favor of a married woman, to be recorded without delay, LVII.

Executing or passing by, deed for property sold at auction, before payment of state tax on sale, CXXII.

In New-Orleans, passing any sale of, or executing sale on real estate without having obtained certificate from Register of mortgages showing whether the same be mortgaged, and to what amount, b. 1, c. 6, n. 88.

Failure to return, when ordered by judge, proceedings relating to any succession or suit, taken from the office of any, in New-Orleans, XLII.

NUISANCE,

In or upon any highway, bridge, river, bayou, creek, bay, or lake, CXLI-IV. or any outlet or natural bayou of the Mississippi, CXLVI.

or bayous Lafourche and Plaquemine, and certain bayous in the parish of Rapides, b. 1, c. 7, n. 10.

or bayou Terre aux Bœufs, or any public road in the parish of St. Bernard, b. 1, c. 7, n. 16,

OBSTRUCTING,

Any officer or other person executing process or order of any court, XLIII.

Officers of certain incorporated companies, b. 1, c. 9, n. 45.

The use of public places, CXLIV.

Any railway, with intent to hinder, impede, or endanger the passing thereon, CXLVII.

Navigation, see *Navigation*.

Any highway, bridge, &c., see *Nuisance*.

OFFICE.

Of trust or profit, persons convicted of any crime or misdemeanor, to be excluded from DXL.

OFFICER,

Term of service of, to be determined by legislature, when not fixed by constitution, b. 2, c. 2, n. 4.

Required to furnish security, exercising duties before giving, XVI.

delivering commission to, before receiving bond, b. 1, c. 3, n. 20.

neglect by person authorized to receive such bond, to furnish attorney general or district attorney list of officers failing to procure certificate required by law, *ibid*.

Of police, failure by, to denounce to magistrate violation of law for preventing slaves from obtaining intoxicating liquors, b. 1, c. 7, n. 144.

Bribery of, LI-II.

Misdemeanor in office by, LIV.

Charging or receiving higher or other fees than allowed by law, LXV.

Of any court of the state, to be exempt from serving as juror, DXVII.

or commissioned under authority of United States, to be exempt, *ibid*.

Of any state court, deputies to, how appointed, see *Deputy*.

Civil, may be impeached for misdemeanor in office—how punished, CCCXIII.

or, except governor, judges, and those whose removal is otherwise provided for by the constitution, be removed by address of two thirds of both houses, b. 2, c. 2, n. 4.

Knowingly obstructing, opposing, or assaulting, beating, wounding, or insulting, while executing any process or order of court, XLIII.

Of certain incorporated companies, obstructing or disturbing, b. 1, c. 9, n. 45.

PARDON,

Power of governor, with approbation of the senate, to grant, except in case of impeachment, DXLV.

In case of treason, power of general assembly to grant, *ibid*.

PARISH,

Jurisdiction of, to extend to centre of any river, bayou, navigable water course, or lake, forming boundary of, CCCXXXV.

Crime or misdemeanor committed on or within one hundred yards of boundary of, or begun in one and finished in another, may be tried in either, CCCXXXVI.

PARISH JUDGE,

Duty of, on complaint of any crime or offence, CCCCLXXXIII.

when to commit accused—when to admit to bail, *ibid*.

to take depositions and recognizances of witnesses for the state, CCCCLXV, CCCCLXXXVIII.

to transmit bonds, declaration of accused, and affidavits, or certified copies thereof, to district court, CCCCLXXXIII.

or to criminal court of first district, CCCIII, CCCCLXXXIII.

PARISH JUDGE—*continued*,

Power of, where breach of the peace apprehended or committed, CCCCLXV, CCLXXXIX.

To have no criminal jurisdiction over free persons, b. 2, c. 2, n. 314.

To impose fine on member of police jury for failure to attend, and to collect the same, XVIII.

in the parish of Concordia to issue execution for any such fine when assessed by police jury, b. 1, c. 3, n. 24.

Neglect by, of duties in relation to police juries, XIX.

Power of, where master or mistress charged with abusing or ill treating, or not discharging duty towards any apprentice or bound servant, CCXLIV.

where any such apprentice or bound servant absconds or absents himself or herself without leave, from service of master or mistress, CLXXVIII, CCXLIV.

Duty of, in regard to free persons of color found in the state contrary to law, CLXXXII-IX.

to see that proprietors comply with law requiring one white for every thirty slaves on plantation, b. 1, c. 7, n. 117.

where slave in lawful service of master or other person is beaten by one not having sufficient motive or lawful authority, CCLXXX.

To transmit copies of depositions taken before, to prove illegal absence of district judge from his district, to treasurer of the state, b. 1, c. 4, n. 32.

To take testimony in cases of impeachment, when, CCXCVII.

may punish witness failing to attend and give evidence, CCXCVIII.

Duty of, in regard to drawing grand and petit juries, in parishes out of the first judicial district, DI-IV.

or in the parishes of St. Bernard, St. Charles, and St. John the Baptist, CCCIV.

Appearing or pleading for any one, in any parish court, LXIV.

Refusal or neglect by, to keep his office at seat of justice of parish, LV.

Fees of, CCCCLXVI.

Proceedings before, in criminal prosecutions, breaches of the peace, or where state a party, how paid, CCCCLXIV.

Of the parish of Jefferson, powers of, in regard to vagrants, b. 1, c. 7, n. 53.

PEACE,

Breach of, or intention to break, justice or parish judge may require party charged with, to give security, or commit him, when, CCLXXXIX, CCCCLXV.

PEACE—continued,

Party bound over to keep, by city judge or justice in the parish of Orleans, to be condemned to pay costs, when, b. 2, c. 2, n. 319.

Power of justices to disperse runaway slaves or others acting against the, CCCCLXI.

Conservators of, the judges of the supreme and inferior courts to be, throughout the state, CCXCI, CCCCXVI, CCCCLXVII.

sheriffs to be, in their respective parishes, CCCCXXI.

coroners to be, in their parishes, CCCCLXVIII.

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PEDLER AND HAWKER,

Who to be deemed, b. 1, c. 6, n. 91.

Trading as, without license, CXXIII, IV.

or without affixing to water-craft or vehicle label required by law, CXXV, VI.

Refusal by, to exhibit license when required by freeholder, CXXVI.

Selling arms or ammunition by, to any slave, CXXVI, CCXIV, and n. 148.

or selling, or delivering intoxicating liquor to, without consent of master or person in charge of such slave, CCXIII.

to be responsible for damage done by any slave so intoxicated, when, b. 1, c. 7, n. 144.

or selling any other article to, without express permission from owner or manager, CCXI, II.

PENITENTIARY,

At Baton Rouge, convicts sentenced to imprisonment at hard labor, to be conveyed to, DXLIX.

not to be employed without the walls of, except when, DL.

Solitary confinement in, abolished, except in what case, DLI.

PERJURY,

And subornation of, how defined, I, and n. 2.
punishment of, L.

Indictments for, what sufficient to set forth in, DVII-III.

Person convicted of, to be excluded from office, and right of suffrage, DXL.

PERSONATING ANOTHER,

In court, by acknowledging, or procuring to be acknowledged any recognition, bail, or judgment in the name of such person, without his consent, XXXIX.

PHYSICIAN,

Practising as, without license, CLXXVII.

in the county of Orleans, duty of president of medical board of eastern district in regard to any person, b. 1, c. 7, n. 76.

May be employed by coroner, when—compensation of—how paid, CCCCL.
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PHYSICIAN—*continued*,

To be exempt from serving as juror, DXVII.

PILLORY,

Punishment of, abolished as to white persons, DXLVII.

PILOT,

Piloting any vessel in or out of the Mississippi by one not appointed a branch, when any branch pilot offers, CXXXII.

Neglect or refusal by any branch, offering to pilot any vessel over bar at mouth of the Mississippi, to exhibit branch when required by commander of such vessel, CXXXIII.

or to board any vessel when called, CXXXIV.

failure by, to own or employ boat as required by law, b. 1, c. 6, n. 112.

or leaving station for more than three days without permission, CXXXV.

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Failure by member of, to attend meetings, XVIII.

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Refusal to serve as member of, in the parish of Jefferson, *ibid*.

Failure by, parish judge to perform duties imposed on him, *relative to*, XIX.

Power of, to appoint and remove constables, CCCCLXIX.

Knowingly receiving illegal votes by presiding officer at any election for, in parishes of St. Mary, St. Martin and Lafayette, b. 1, c. 3, n. 26.

PORK,

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POWDER,

Shipped on any steamboat, neglect by owner or captain to put up notices of the same, as required by law, CCXXIV.

Shipping, on any steamboat, without notifying master or clerk of boat, CCXXV.

Exceeding one hundred pounds imported into New-Orleans, failure by owner or consignee, to remove immediately to magazine, b. 1, c. 7, n. 178.

PRESCRIPTION,

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PRESIDENT,

Of board of council of city of Lafayette, power of, in regard to vagrants, b. 1, c. 7, n. 53.

PRETENCES,

False, obtaining money or other property by, with intent to defraud, LXXXV.

PRINTER,

Failure by, when announcing sale of property belonging to free person of color, to insert certain words after his or her name, CXC.

PRINTER, STATE,

To publish every six months, act for preventing free persons of color from entering the state, b. 1, c. 7, n. 86.

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Breach of, or conspiracy to break, XLVII.

Parish, sheriff of parish to be keeper of, CCCCXXXI.

in parish of Orleans, sheriff of criminal court to be keeper of, CCCLXXXIX.

In St. Bernard, St. Charles, St. John the Baptist, to be provided by police jury of each parish, CCCCVIII.

PRISONER,

What provisions to be furnished to, b. 1, c. 4, n. 53.

penalty for neglect of keeper to furnish, *ibid*.

Grand jury to examine and report at each session of district court, how treated, *ibid*.

PROBATES,

Judge of court of, failure by, to cause bonds of tutor or curator appointed by him, from which legal mortgage results in favor of any minor, interdicted, or absent person, to be recorded without delay, LVII.

PROCESS,

Style of, what to be, CCXCI.

Feloniously stealing or taking away any, XXXIX.

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PROSECUTION,

To be in name and by authority of the state—to conclude how, CCXCI.

Of certain offences, proceedings in, to be according to common law, DXIV.

Where state a party, to be conducted by attorney-general, district, or state attorney, CCCXCXVIII.

Master may institute, for outrage or abuse of slaves, D.

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Erecting any work tending to hinder or embarrass public use of, CXLI V.
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Of crimes and offences, power of governor and senate to commute, DXLVI.

RAILWAY,

Obstructing, with intent to hinder, impede, or endanger free passing thereon, CXLVII.
 Wilfully injuring or destroying any part of, or any work, carriage, or machinery belonging to company owning, b. 1, c. 9, n. 45.

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 Assault with intent to commit, CCXL.
 Attempt by free negro, mulatto, indian, or mustee to commit, on any white woman or girl, CCXXX.

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For appearance or attendance at court, judgment how obtained on, CCCCLXXIII.
 judgment may be set aside when, *ibid.*
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 In criminal prosecutions, jurisdiction of criminal court of first district in regard to, CCCLXI.
 appeal to supreme court from its decisions, when allowed, *ibid.*
 In criminal cases, or for preservation of the peace, taken by judges of city court, or mayor, or recorders of New Orleans, when forfeited, to be recovered by city attorneys for use of city, b. 2, c. 3, n. 2.

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Of any court of the state, feloniously stealing or taking away, by means whereof any judgment shall be reversed, avoided, or not take effect, XXXIX.
 Defacing or embezzling any, with intent to defraud, XL.
 Stealing, wilfully destroying, or falsifying any notarial, XLI.
 Relating to any succession or suit taken from the office of any notary in New-Orleans, failure to return when ordered by judge, XLII.

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Of any incorporated city, to be exempt from serving as juror, DXVII.
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REFUGE,
 House of, for juvenile offenders, council of each municipality of city of
 New Orleans, authorized to establish, b. 1, c. 7, n. 53,
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REGENT,
 Of any college, academy, central, or primary school, failure by, to make
 reports required by law, XXII.

REPRESENTATIVES,
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REPRIEVE,
 Power of governor, with approbation of senate, to grant, except in case
 of impeachment, DXLV,
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 session of general assembly, DXLV.

RESCUE,
 How defined, I. and n. 2.
 Of one committed for capital offence, or aiding therein, XLIV.
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 Taking any, under pretence of helping owner to stolen goods, XLVII.

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 How defined, I. and n. 2.
 Punishment of, CCLXXV.
 Of bank notes, bonds, bills obligatory, bills of exchange, promissory notes,
 lottery tickets, paper bills of credit, or certificates of the United States
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 From the person, CCLXXVI.

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False, making or using, LXXXIX.

SCHOOL,

Refusal by administrator, or treasurer of board of administrators of parish, to accept appointment, XX.

or neglect of duty by, *ibid.*

Embezzlement, or misapplication of money drawn from the state, by trustee of any parish, XXI.

or refusal by, to exhibit accounts and vouchers to grand jury, *ibid.*

Failure by regents, administrators, or others to make reports required by law, concerning any central, primary, or parish, XXII.

SEAL,

Of justice, not necessary to be affixed to any warrant or other act, or document, CCCCLX.

SEAMEN,

Carrying on business of shipping, before giving bond, CXXVII.

or employing by master or owner of vessel or steamboat trading to New Orleans, any one to ship, who has not given such bond, CXXVIII.

Shipping any, by master of vessel in any port of entry in the state, without certificate of discharge, or giving notice required by law, CXXIX.

Knowingly receiving or concealing by tavern, lodging or boarding house keeper any, deserting from any merchant vessel, CXXX.

Free colored person, entering state as, and not departing with vessel, or in time prescribed, CLXXXVII.

SEARCH,

Power of justice to, where arms, ammunition, or stolen goods supposed to be concealed, CCCCLXI.

Warrant for concealed slaves, may be issued by any judge or justice when, CCCCLXXX.

SECRETARY,

Of the senate, duty of, in regard to costs in cases of impeachment, CCXCIX, CCC.

to be exempt from serving as juror, DXVII.

SENATE,

Power of, in regard to reprieves and pardons, DXLV.

to commutation of punishments, DXLVI.

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SHERIFF,

To be appointed for each parish, CCCCXXXI.

Of St. John the Baptist to be *ex officio* sheriff of county of German Coast, b. 2, c. 2, n. 254.

Term of office and duties of—to attend every court held in parish, CCCCXXXI.

Of parish in which supreme court sits, to execute its judgments and orders, b. 2, c. 2, n. 254.

To be keeper of parish jail, CCCCXXXI.

To receive and keep prisoner committed to his charge by marshal or other person under authority of the laws of the United States, b. 1, c. 4, n. 53.

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Bonds to be given by—how to be sued on, b. 2, c. 2, n. 256.

Commission when to be delivered to, b. 1, c. 3, n. 20.

Copy of bond for collection of taxes, given by, to be transmitted to treasurer of state by clerk of parish court—penalty for failure to transmit, b. 2, c. 2, n. 256.

Acting as, before complying with provisions of law regulating appointment of, LXVII.

May appoint deputies, how—deputies to be sworn, CCCCXXXIII–IV, b. 2, c. 2, n. 135.

In case of inability of judge to attend, district court may be adjourned by, when, CCCXLIII.

Provisions to be furnished each prisoner by, b. 1, c. 4, n. 53.

Duty of, where vagrant sentenced to imprisonment at hard labor—may bind out such vagrant, when, CLXX.

where offender committed to his custody by justice, CCLXXXIX, CCCCLXXXII.

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where offence committed in one parish and offender arrested in another, CCCCLXXXIV.

Or deputy, appearing or pleading for any person in court of which he is an officer, except as attorney in fact, LXIV.

Failure by, to pay over fines imposed by any court or justice when collected, b. 2, c. 2, n. 256.

or clerk's, sheriff's, or interpreter's fees, b. 1, c. 4, n. 53.

or other money collected, LXVIII.

Of district court of first district, of commercial and parish court of New Orleans, failure by, to pay over money, bonds, &c., b. 1, c. 4, n. 53.

Charging or receiving by, higher or other fees than allowed by law, LXV. or failure by, to post up copy of fees in his office, and in court house when court in session, b. 1, c. 4, n. 47.

Misdemeanor in office by, LIV.

SHERIFF--continued,

Or deputy, failure by, to denounce to magistrate any violation of law for preventing slaves from obtaining intoxicating liquors, b. 1, c. 7, n. 144.

To execute orders, writs, &c. of justices in criminal cases, except in parishes of Orleans and Assumption, CCCCLXII.

To summon grand and petit jurors, in parishes out of the first judicial district, DIII.

Writs of *venire facias* to be served by, DXXIII.

when interested or not indifferent, to be served by who, *ibid.*

To summon jurors *de talibus*, when, *ibid.*

Refusal or neglect by, to perform duties imposed by act allowing compensation to jurors, b. 2, c. 7, n. 26.

To convey convicts sentenced to imprisonment at hard labor, to penitentiary at Baton Rouge, DXLIX.

To execute sentence of death, when warrant directed to, DLII.

Fees of, CCCXXXV-XLV, CCCCLXXXIV.

of sheriff of Plaquemine, b. 2, c. 2, n. 265.

Compensation allowed, for maintaining prisoners, b. 1, c. 4, n. 53.

Annual allowance to, in parishes out of the first judicial district, CCCCLVI.

of the county of German Coast, b. 2, c. 2, n. 278.

Failure by constable of another parish to pay over fees of, when collected, b. 1, c. 4, n. 53.

What not sufficient cause for challenge of, DXIX.

District judge may appoint, *pro tempore*, when—to give bond and security—his duties and fees, CCCXXXII.

Office of, to be vacated by permanent removal from parish, b. 2, c. 2, n. 255.

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Duties of, when to be performed by coroner—powers and emoluments of coroner while acting as such, CCCCLIV.

Prosecutions &c., against, when prescribed, DX.

OF PARISH OF ORLEANS,

duties of, how limited, b. 2, c. 2, n. 254.

to attend supreme court in New Orleans, *ibid.*

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neglect by, to deposit funds in bank, or withdrawing the same except to pay over to parties entitled thereto, or refusal to exhibit bank book, or other neglect of duty or contempt of court by, b. 1, c. 4, n. 27.

OF THE CRIMINAL COURT IN NEW ORLEANS,

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SHERIFF, OF THE CRIMINAL COURT IN NEW ORLEANS—continued,
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powers, duties, and emoluments of, CCCLXXXVIII.

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**OF ST. CHARLES, ST. JOHN THE BAPTIST (COUNTY OF GERMAN COAST), AND
ST. BERNARD,**

to attend sessions of criminal court of first district in their re-
spective parishes, CCCC.

duties and compensation of, *ibid.*

to procure building for sessions of court, when no court house in
parish, CCCXCVI.

duty of, in regard to grand and petit juries, CCCIV, V.

**OF DISTRICT COURT OF FIRST DISTRICT, AND OF COMMERCIAL COURT OF NEW
ORLEANS,**

neglect by, to deposit funds in bank, or withdrawing the same ex-
cept to pay over to parties entitled thereto, or refusal to exhibit
bank book, or other neglect of duty or contempt of court by, b.
1, c. 4, n. 27.

SHIPPING MASTER,

Acting as, before giving bond required by law, CXXVII.

Employing by master or owner of vessel or steamboat in New-Orleans
any, who has not given such bond, CXXVIII.

SLAVES,

Accused of any crime, concealing or carrying away, by master or other
person in charge of, V.

Wilful neglect by master or mistress to inform against, when guilty of
revolting or plotting to revolt, or striking master or mistress, or their
children or overseer, XIV.

Writing, printing, publishing, distributing, or speaking any thing, or bring-
ing into the state any paper, pamphlet or book, tending to incite insub-
ordination among, VII-IX.

Sentenced to service in irons, release of, by master before expiration of
sentence, XLVI.

Concealing goods stolen by, XLIX.

Neglect or refusal to appear and bear evidence against, LXIX.

Master or other person in charge hindering any, from appearing and
giving evidence against other slaves, *ibid.*

Keeping any, by owner or occupant of plantation, without a white or free
colored person as manager, CXCIX.

Failure by proprietor of, or agent, to keep on plantation one white for every
thirty, CC.

or refusal by, when required, to give parish judge a statement of
number of whites so kept, CCI.

SLAVES—continued,

- Failure by owner to furnish, with provisions required by law, CCII.
or with the clothing, CCIII.
how to be tried for such neglect, b. 1, c. 7, n. 121.
- Disabled, neglect by owner to maintain, as prescribed by law, CCIV
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- Permitting, to work certain days for their own account, instead of feeding, CCV.
- Permitting assemblies of, contrary to law, CCVI.
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- Causing goods to be sold by, except in city and suburbs of New Orleans, CCVIII.
- Causing provisions to be sold by, without authority in writing, CCIX.
destroying such authority, to obtain forfeiture of provisions, *ibid*.
- Teaching, or permitting to be taught to read or write, CCX.
- Selling any article to, without express permission of owner or manager, CCXI-II.
selling or delivering, or contracting to sell or deliver intoxicating liquors to, without such permission, CCXIII.
offender when to be responsible for any damage done by slave while intoxicated, b. 1, c. 7, n. 144.
failure by police officer, constable, marshal, deputy marshal, sheriff or deputy sheriff, to denounce offender, *ibid*.
- Selling arms or amunition to, by any pedler or hawker, CCXIV, and n. 148.
- Purchasing, or receiving on deposit or otherwise, any property from, without written authority from owner or manager, CCXV-VI.
- Admitting into any house or other place, after sun set, without leave of owner, CCXVI.
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- Search warrants for concealed, may be issued by any judge or justice, when, CCCCLXXX.
- Opposing patrol for the police of, CCXVIII.
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- Masters may prosecute for outrages and abuses of, D.
- Beating without sufficient motive or lawful authority, while in lawful service of master, or other person, CCLXXX.
- Cutting or breaking iron chain or collar, used to prevent the running away of, CCLXXIV.
- Furnishing with false free papers, or certificates of birth or christening showing them to be free born, CCLXXXVIII.
- Not to be witnesses for or against whites, DXXVIII.
nor for or against free persons of color, except when charged with raising or attempting to raise, or aiding in any insurrection of slaves, DXXIX.

SLAVES—continued,

Consenting to, or passing any act of emancipation of, contrary to law, CLXXIX.

Owner emancipating, when to give bond for their departure from the state, b. 1, c. 7, n. 79.

bond how forfeited—emancipated slave to be subject to privilege for payment of, *ibid.*

Selling any, of or under ten years, separate from mother if alive, CXCVIII.

or selling mother separate from any child under ten, *ibid.*

prosecutions for, may be commenced at any time within three years, b. 2, c. 7, n. 101.

or bringing such child into the state, unaccompanied by its mother, if living, CXCVII.

in prosecutions for, burden of proving age of child to be on accused, *ibid.*

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Bringing into the state when convicted of certain crimes, CXCI.

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knowingly buying or selling any such, CXCVI.

in prosecutions for, burden of proof to be on accused, b. 1, c. 7, n. 99.

Bringing into the state any accused of having been concerned in any insurrection, or who may have resided in any county during an insurrection—exception, after two years, CXCI.

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Mortgaged, transporting or attempting to transport out of the state, by mortgagor in fraud of mortgage, or aiding therein, CCLXXI.

Shipping master to give bond to be responsible for any, illegally shipped by him, CXXVII.

Inveigling, stealing, or carrying away any, or aiding therein, CCLXIII.

Aiding, to run away or leave master's service, *ibid.*

Conveying out of the state on any steamboat or other vessel, without consent of owner, or receiving on board with intent so to do, CCLXIV, VI, and n. 29.

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Found on any steamboat or other vessel without written permission, to be presumed to have been received with intent to deprive owner thereof—presumption how destroyed, CCLXV.

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Transporting or attempting to transport, out of the state, by any master of a vessel, without complying with forms prescribed by law, CCLXVIII.
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Found concealed on board of any vessel, duty of master in regard to, if still in the state, CCLXX.

Carrying or attempting to carry out of the state by land, without consent of owner, and with intent to aid such slave to escape—intent when to be presumed, CCLXVII.

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Punishment of, CCXXXVII.

SOLITARY CONFINEMENT,

In penitentiary abolished, except in enforcing obedience to police regulations thereof, DLI.

SPIRITS,

Not subject to import duty, selling in New-Orleans without being gauged, CXI.

Gauger of, duties of—compensation of, *ibid.*

neglect by, to mark every barrel, cask, &c., as required by law, CXII.

Purchase or sale of, by gauger, as broker or consignee, CXIII.

Retailing without license, CXLIX.

in the parish of Rapides—what to be construed to be selling by retail—none but free white citizen to be licensed to sell in that parish, b. 1, c. 7, n. 22.

Selling, by any innkeeper or other retailer, to any soldier in the service of the United States, knowing him to be such, without permission from officer, CLII.

Selling or giving, to any indian, CLIII.

STAMPS,

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STEAMBOAT,

Engineer for examination of, to be appointed—how long to serve—compensation allowed—to have office where, b. 1, c. 7, n. 159.

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Failure by captain, agent, or owner of, to obtain certificate of examination, CCXX.

Where loss of life results from accident on, captain to be adjudged guilty of manslaughter, when, CCXXI.

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Accidents on, from racing, high steam, overloading, running into another boat, or while captain, pilot, or engineer, engaged in gaming, CCXXII.

Neglect to put up notices on board, when gunpowder shipped on, CCXXIV.

Shipping powder on, without notifying master or clerk, CCXXV.

Neglect by master, owner, or agent of, to substitute iron chain for tiller-rope, CCXXVII.

Neglect by master of, to hoist lights when running at night, CCXXIX.

Duty of master or pilot of, when approaching another boat, CCXXVI.

Neglect by master of, to post up copies of law relative to, CCXXVIII.

STOLEN GOODS,

Taking reward under pretence of helping owner to, XLVII.

Receiving or buying, knowing them to have been stolen, XLVIII.

Concealing any, stolen by slaves, XLIX.

Power of justice to search for, CCCCLXI.

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Of perjury, *see Perjury*.

SUCCESSION,

Failure to return proceedings relating to any, taken from the office of any notary in New Orleans, when ordered by judge, XLII.

Taking illegal possession of any vacant, with intent to use, CCLXXVII.

SUFFRAGE,

Provision of constitution concerning, XXV.

Persons convicted of any high crime or misdemeanor, to be forever excluded from right of, DXL.

SURVEYOR,

General or parish, charging or receiving by, other or higher fees than allowed by law, or charging or receiving any fee where no service rendered, XXIII.

Parish, neglect by, to perform duties prescribed by act for fixing the boundaries of adjoining parishes, XXIV.

SUSPICIOUS PERSON,

See Vagrant.

SYNDIC,

Of creditors of insolvent, failure by, to exhibit statement of business when required by three or more creditors, LXXXIV.

TAVERN,

See *Inn*.

TAXES,

Giving by collector or deputy receipt for, to one not on tax list, without evidence that such person has property liable to, XXXV.

Assessor of, placing on tax list one not liable to, XXXVI.

On property sold at auction, executing or passing deed of sale before payment of, CXXII.

On law suits to form a jury fund, b. 2, c. 7, n. 26.

TIPPLING HOUSE,

Keeping without license, CXLIX.

or in parish of Rapides contrary to law, b. 1, c. 7, n. 22.

any disorderly, CL.

any disorderly in St. Francesville b. 1. c. 7, n. 25.

TOBACCO,

See *Inspection of*.

TONGUE,

Maliciously cutting out or disabling, or aiding therein, CCXXXV.

TRANSLATOR,

See *Interpreter*.

TREASON,

Against the state, definition of, VI.

two witnesses to the same overt act, or confession of accused in open court, necessary to convict of, *ibid*.

TREASURER,

Of the state, to make deduction from salary of district judge absenting himself from his district contrary to law, b. 1, c. 4, n. 32,

to prosecute sheriffs, when, b. 2, c. 2, n. 256.

duty of, in regard to sheriffs' accounts, CCCCXLII.

diversion or misapplication of public money by, XVII.

Parish, to prosecute sheriff failing to pay over fines collected, b. 2. c. 2, n. 256.

Of board of administrators of parish schools, refusal to accept appointment as, or neglect of duty by, XX.

Of any incorporated institution, to be exempt from serving as juror, DXVII.

TRIAL,

Of certain offences to be according to the common law, DXIV.

TRUSTEE,

- Of parish schools, embezzlement or misapplication by, of money drawn from the state, XXI
- Of any college or academy, failure by, to make reports required by law, XXII.

TUTOR,

- Obtaining money or other property by granting mortgage or privilege on property subject to legal mortgage in favor of any minor, where such legal mortgage has not been recorded, without declaring the same, LXXXVI.

VACANT ESTATE,

- Taking illegal possession of any, with intent to use, CCLXXVII.

VAGRANT,

- Idle and disorderly person, who to be deemed—may be bound to good behavior, or committed, when, CLXIV.
- Vagabonds and suspicious persons, who deemed—how punished, CLXV.
- Incorrigible vagabonds, who deemed—how punished, CLXVI.
- In the parishes of Orleans and Jefferson, who deemed—how punished—powers of certain officers, and duty of attorney general in regard to, b. 1, c. 7, n. 53.
- Women convicted as, to be liable to imprisonment, CLXVII.
- Power of two or more justices to examine and punish, CCCCXCI–III.
 - of district courts and criminal court of first district in regard to—prosecutions before, to by information, CCCCXCII.
- May be arrested on warrant of justice, CCCCXC.
- Not to be deprived of right to trial by jury, when prayed for, CLXVI, and b. 1, c. 7, n. 53.
- Costs of arrest of, how paid, CCCCXCIII.
- Sentenced to punishment, may be discharged on giving bond to leave the state—penalty when found in state in violation of bond, CLXIX.
 - when sentenced in New Orleans, bond how given—how forfeited, b. 1, c. 7, n. 53.
- Sentenced to imprisonment at hard labor, may be bound out to service, CLXX, and b. 1, c. 7, n. 53.
- Master of vessel arriving at New Orleans, to give bond that no passenger becomes, in two years thereafter, CLXXII.
 - mayor or recorder may dispense with bond, when, CLXXIII.
- Harboring any, CLXVIII.

VENIRE FACIAS,

- Writ of, how issued and executed, DXXIII.

VESSEL,

- Maliciously setting fire to any, CCL.
 - or preparing combustible matter with intent so to do, CCLI.

VESSEL—*continued*,

Feloniously breaking or entering any, CCLVII-VIII.

VISITOR,

Of any college or academy, failure by, to make reports required by law, XXII.

VOLUNTARY DECLARATION,

Of accused, how to be taken, CCCCLXXXI.

how by parish judge, CCCCLXXXIII.

to be evidence before grand and petit jury, CCCCLXXXI, III.

when sworn to, not admissible in evidence, b. 2, c. 7, n. 6.

visa voce evidence of, not admissible, *ibid*.

to be delivered to prosecuting attorney, CCCCLXXXIX.

but may be examined by any person, *ibid*.

WARRANT,

Seal of justice not necessary to, CCCCLX.

Of arrest, see *Arrest*.

Of commitment, see *Commitment*.

Search, see *Search*.

WEAPON,

Concealed, being found with, LXXV.

offender to be bound to keep the peace—may be committed in case of failure to give security, CCXC.

Duty of justice, where party charged with having, *ibid*.

WEIGHER,

Of hay, see *Inspection of*.

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See *Inspection of*.

WHIPPING,

Punishment of, abolished as to free persons, DXLVIII.

WITNESS,

On behalf of state, deposition of, where person charged with any offence, to be taken in writing by justice or parish judge, CCCCLXXXVIII, CCCCLXV.

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accused to have copy of, *ibid*.

For the state, to be bound over to give evidence, CCCCLXXXVIII.

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Right of accused to meet, face to face, DXII.

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nor for or against any free person of color, except when charged with raising, or attempting to raise, or aiding in any insurrection of slaves, DXXIX.

Informers against persons violating laws prohibiting gaming, to be competent as, b. 1, c. 7, n. 33, 38.

or violating laws prohibiting lotteries, b. 1, c. 7, n. 44.

against persons violating laws for preventing slaves from obtaining intoxicating liquors, to be competent when share of fine abandoned, b. 1, c. 7, n. 144.

Incompetency of, on account of interest, according to the common law b. 2, c. 7, n. 6.

on indictments for forgery, who admissible as, *ibid.*

Declaration of, must be taken *in toto*, *ibid.*

On charge of treason against the state, two necessary to same overt act, VI.

When slave found on any steamboat or other vessel without written permission, two necessary to destroy presumption against captain or owner, CCLXV.

Every court of criminal jurisdiction may compel attendance of, when, DXXX.

Power of district courts to compel attendance of, CCCXLIX.

Of criminal court of first district, CCCLXX, CCCXCIX.

Summoned to appear at any district court, to attend till cause is disposed of, or discharged, DXXXI.

Compensation of—how paid, DXXXII, and n. 41, 43.

Neglect or refusal by, to appear or bear evidence against slaves, when summoned, LXIX.

Hindering by master or other person in charge, any slave from appearing and giving evidence in proceedings against other slaves, *ibid.*

Attending supreme court on trial of any clerk, how paid, CCXXIII.

In cases of impeachment, see *Impeachment*.

WORKHOUSE,

In the city of New-Orleans and parish of Jefferson, b. 1, c. 7, n. 53.

vagrants may be committed to, *ibid.*

WOUNDING,

Short of maiming, CCXXXIX.

With a dangerous weapon, or with intent to kill, less than mayhem, CCXLII.

THE END.

ERRATA.

Page 48, note 8, line 12, read 1 *Martin*, for 11 *Martin*.

Page 58, note 12, add,—See act of 13 March, 1837, p. 95.

Page 105, art. CLXVI, line 2, omit *or*.

Page 119, note 101, line 6, read *DIX* for *DX*.

